Kaplan-Weil argument is that the dynamics have worsened since 1970 and should be faced up to now.

What's to be done? The first thing is that the public has to be told, by the politicians, that it is not possible to maintain the current rate schedule and benefit level. One or both have to be adjusted. It is of vital importance that the public be told in that most of the work force is now counting on the purchasing power the current benefit levels yield for their retirement years.

Congress may cringe at the idea of trimming these benefit levels, but sharp tax boosts won't be popular either. Liberals will want to dip into the general fund to keep the system going a little longer, but within two or three years this method will be cleaning out the Treasury. All other "worthwhile" government programs will have to be chopped out to sustain Social Security. That, too, appears to be politically impossible. Indeed, there are no politically appealing ways to straighten out this mess. But the longer the nation waits to do it, the more it will hurt.

DR. KISSINGER, THE NEW MRS. VANDERBILT

HON. JOSEPH M. GAYDOS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 17, 1974

Mr. GAYDOS. Mr. Speaker, there is not a person in this country to my knowledge who does not have the highest respect for Italy and the keenest sympathy for that nation in its present economic difficulties.

This is because Italy not only is a good friend and ally but also is the native land of the parents and grandparents of many of our finest citizens.

Having said this, I want to protest the false assurances given Italy by Secretary of State Henry Kissinger during his recent visit to Rome. He told the Italian leaders that we Americans stand ready to help Italy out of its inflation troubles.

The Associated Press, in a dispatch from Rome, quoted Dr. Kissinger as having said to President Giovanni Leone:

We are following Italian events with sympathy and affection. You can count on the fact that in whatever moment Italy should find itself in difficulty, we will do everything possible to assure its stability and progress.

The first thing possible, the AP continued, would be a substantial U.S. loan. There have been persistent reports, the news agency explained, that Italy is seeking this and that it was the principal item on the agenda of Dr. Kissinger's talks in Rome.

Where, I might ask, would Dr. Kissinger get the money? Certainly, a loan big enough to bail out a country the size of Italy from an inflation situation running at the rate of 20 percent a year would be in the several billions. Have we Americans the resources to come up with it?

Dr. Kissinger surely is aware that our inflation rate has been in the double figures and that governmental borrowing now at high rates of interest is one major cause of our own dilemma. In order to help out Italy, it would be necessary for our government to borrow more, thus shooting up the interest rate here still further and sending our own inflation percentaage to a level at least close, if not equally, to that of Italy.

It is easy, of course, for a U.S. diplomat to speak overseas in bountiful terms. It assures a good reception, and, indeed, enables press conference claims of great success. But the fact that our diplomats have been doing this for the last quarter century, and then following through with gifts and loans of the money of our people, is the greatest reason why this country is in an economic bind today. Our Government has overextended itself.

Furthermore, it is unfair, in my opinion, for an inflation-threatened, debt-ridden nation such as ours to be holding out false hopes of aid to others. Efforts now are being made to hold down the new Federal budget to around the $300 billion mark—a level of spending that still would result in a deficit of $6 billion or more. There is also talk in administration circles of the need of higher taxes. Prices continue to climb throughout the economy. We are in no shape, therefore, to help anyone and, in fact, we could stand some sizable help ourselves.

Dr. Kissinger has been getting around in recent months, dropping promises here and raising hopes there, and the end result could be widespread disappointment among our supposed friends when it is found we cannot deliver. This is not right in my estimation and neither is it good either for our position in the world today or in the future.

The Secretary of State reminds me of a Mrs. Frederick Vanderbilt of a bygone era going among her needy Hyde Park neighbors and handing out gifts and promising help in their problems. Mrs. Vanderbilt was the "Lady Bountiful" of New York's Dutchess County while Dr. Kissinger has made the world his operating area. However, the difference is that Mrs. Vanderbilt actually had the money and Dr. Kissinger does not.

SENATE—*Thursday, July 18, 1974*

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

PRAYER

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

Our Father God, Lord of history and of every day, in this hallowed moment when we shut the door upon the outer world with its tumult and shouting may we know ourselves for what we are—sinful, needy, wistful human beings claiming Thy redemption and renewal. And in this quiet mood may we also know Thee as Thou art—the transcendent, sovereign God of love and grace who rules all men and nations, ever ready to help those who call upon Thee in spirit and in truth. With Thy benediction upon us may we face the toil of this day with clear thinking, honest dealing, and the holy vision of a better world where all men are ruled with justice and truth.

In these fateful days when our frail hands and feeble judgments have a part in the shaping of the world that is to be, give us the wisdom to discern Thy will and the courage to do it. When the day is done measure our lives by the life of Thy Son who went about doing good and in whose name we pray. Amen.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Wednesday, July 17, 1974, be dispensed with.

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

COMMITTEE MEETINGS DURING SENATE SESSION

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

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

EXECUTIVE SESSION

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

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

The PRESIDENT pro tempore. The nominations on the executive calendar will be stated.

NATIONAL RAILROAD PASSENGER CORPORATION

The second assistant legislative clerk read the nomination of Roger Lewis, of the District of Columbia, to be a member of the Board of Directors of the National Railroad Passenger Corporation.

Mr. WEICKER. Mr. President, I have recently removed my "hold" on the nomination of Mr. Roger Lewis to the Board of Directors of Amtrak.

I have been long concerned with the Federal Government's commitment to the national intercity rail passenger system. I have been particularly disturbed by the apparent lack of determination on the part of top management of Amtrak to provide vigorous leadership and to act forcefully to promote the progress of Amtrak.

On the basis of several meetings and certain correspondence with Mr. Lewis in recent weeks, I am now satisfied that Mr. Lewis has understood the message, that Amtrak must fight hard to strengthen the Federal commitment to rail passenger service, and particularly the concept and system of Amtrak. At this point, I can only hope that Mr. Lewis' professed determination to fully develop the Amtrak system will result in a vastly improved nationwide rail passenger system for the American public.

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

Mr. President, I ask unanimous consent that a letter from Mr. Roger Lewis to me, dated July 11, on the subject of the future of Amtrak, be printed at this point in the RECORD.

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

JULY 11, 1974.

DEAR LOWELL: Due in large part to the foresight of many members of Congress, Amtrak came into being in 1971 and set about the task of rebuilding the sorrowfully wasted transportation asset that rail passenger service had become. We now know in light of the profound effects of the energy crisis that to overcome the tremendous physical obstacles, and to provide the service that the public so desperately needs at this time, our work should have commenced not three years ago, but many years before that.

Perhaps our country's finest tradition is one of overcoming seemingly impossible obstacles with a combination of determined effort and cooperation. If the Senate should see fit to confirm my reappointment to the Amtrak Board you can rest assured that there will be no lack of determined effort either on my part or on the part of anyone else associated with the Company. That effort must, of course, be made in close conjunction with members of the legislative and executive branches of government, without whose cooperation and support neither I, nor any combination of Amtrak officials, can achieve the goal expressed in the Rail Passenger Service Act of 1970. Because it is so vital to maintain the level of these mutual efforts, I intend to provide vigorous leadership and to be especially active in opposing any governmental policy or development that threatens our continued progress.

I am proud of the work that the Company has done so far, but the challenge is now greater than ever. Amtrak, conceived originally as something of an experiment, now has become an enterprise that must not fail. I believe that I can do much to see that it does not fail, and with your help and the help of others, to assure that within the shortest possible period the American people once again will be afforded the level of comfort, convenience and reliability in rail passenger travel that our times demand.

Sincerely,

ROGER LEWIS,
President.

The PRESIDENT pro tempore. The question is, Will the Senate advise and consent to the nomination?

The nomination was confirmed.

Mr. PACKWOOD subsequently said: Mr. President, earlier this morning the Senate by voice vote confirmed the nomination of Mr. Roger Lewis as a member of the Board of Directors of the National Railroad Passenger Corporation.

This hurried decision was made in the absence of a number of opposing Senators, myself included. Had a rollcall been conducted, as many of us assumed would be the case, the outcome might have been very different.

While Roger Lewis may now be a member of the Board through parliamentary maneuver, I wish to advise the Directors of Amtrak that I am fervently opposed to Mr. Lewis' reelection as President of the Board.

To my mind, if we might generalize, there are two major problems which will continue to face Amtrak, and which have confronted Roger Lewis since 1971. The problems are: First, rail passenger accessibility to as many people and the widest area as possible; and second, efficient service. Accessibility and proficiency, these are the standards by which we must judge those who have been responsible for the development and maintenance of Amtrak. From this perspective I could not have voted for the nomination of Roger Lewis, and likewise, I expect the Board of Directors of Amtrak to recognize the inadvisability of elevating Lewis, again, to the presidency of the Board. I would like to provide some information as to why I am so firm in my opposition to Mr. Lewis.

I fully understand that when Congress took over the Nation's rail passenger service it was essential to operations to trim trunklines to the bone so as to insure efficient service. Routes which did not merit continued passenger service had to be cut out if we were to successfully revamp the system. But it was also my understanding that from time to time Amtrak would designate experimental routes, to be in effect 2 years to determine if some regions caught short by the initial route design in 1971 could indeed support services by Amtrak. Or, if for some reason the merits of an added route escaped the notice of Amtrak, the Corporation could be requested to conduct a study which would determine the estimate of losses, if any, which would be applicable if Amtrak were to commence rail passenger service between two points. After receipt of such information, and a decision by those States involved to underwrite two-thirds of any expected losses, such a route could be implemented.

Mr. President, with those assurances the Pacific Northwest Regional Council, composed of the States of Idaho, Oregon, and Washington, actively pursued the establishment of a route linking Portland, Oreg. with Ogden, Utah. Such a link would cut in half a more than 200,000-square mile void of service extending from western Oregon to eastern Wyoming. Without it, the bulk of the population of eastern Oregon and the entire State of Idaho has no access to Amtrak. The entire tier of Northern States from Washington to Wisconsin must connect in Chicago or Sacramento if they want to travel by rail to Denver. What could be a 350-mile trip is doubled twice again; of course, it would be senseless to embark on such a circuitous journey.

At least, Mr. President, this situation demands a feasibility study. However, instead of cooperation from Amtrak under Roger Lewis, the Pacific Northwest Regional Council has only met with frustration. A letter from Gov. Cecil D. Andrus, of Idaho, was unanswered for 2 months. Typically, the eventual response was less than an answer to important questions raised by the Governor and Mr. Jack Padrick, Federal Cochairman of the Pacific Northwest Regional Commission. The letter, received in the middle of April, cited a study "currently in progress." As of this morning the Regional Council reported nothing has been received from Amtrak and phone calls are still going unanswered. This situation is deplorable, and it must be remedied. I do not expect such cavalier treatment by any official of the Government to any citizen, but I am particularly upset by the disdainful treatment of Governor Andrus.

If Mr. Lewis' relations with his fellow public servants in trying to improve and expand Amtrak routes is any indication of what to expect with maintenance and operation of the trains themselves, again, we are in for another disappointment. Continually, trains are late and sorely in need of repairs. Money available to remedy this situation has been too frequently used for cosmetic frills.

What is lacking is direction—strong management from an Amtrak head who knows railroads, knows the problems, and can get at the answers. Mr. Lewis has, instead, served as a caretaker of a rail system which needs expert attention. He has presided over an increase in the number of rail passengers, but contributed little to it.

In an interview with Fortune magazine, Mr. Lewis in explaining his task as president of Amtrak said:

I like to visualize myself as the leader of the orchestra. My idea is to make music out of pandemonium.

This country has yet to hear the sweet song of success from Amtrak it deserves. It is time for a new maestro, and I hope the Board of Directors for Amtrak will now vote accordingly.

FEDERAL ENERGY ADMINISTRATION

The second assistant legislative clerk read the nomination of Marmaduke Roberts Ligon, of Oklahoma, to be an Assistant Administrator of the Federal Energy Administration.

Mr. MANSFIELD. Over, Mr. President.

The PRESIDENT pro tempore. The nomination will be passed over.

PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA

The second assistant legislative clerk read the nomination of H. Mason Neeley, of the District of Columbia, to be a member of the Public Service Commission of the District of Columbia

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

DEPARTMENT OF STATE

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

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

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

COUNCIL ON INTERNATIONAL ECONOMIC POLICY

The second assistant legislative clerk read the nomination of William D. Eberle, of Connecticut, to be Executive Director of the Council on International Economic Policy.

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

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

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

LEGISLATIVE SESSION

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

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

ORDER OF BUSINESS

The PRESIDING OFFICER. Under the previous order, the Senator from Georgia (Mr. TALMADGE) is recognized for not to exceed 10 minutes.

ADMINISTRATION CREATES HAVOC IN TOBACCO COUNTRY

Mr. TALMADGE. Mr. President, I rise today to document once again how this administration has tinkered with the marketing system for agricultural products, creating disastrous economic conditions for our farmers.

On December 14 of last year, I wrote to Secretary Butz to express my strong opposition to a rumored increase in the flue-cured tobacco marketing quota for 1974.

I pointed out that any increase in the quota would have a disastrous effect on the pocketbooks of flue-cured tobacco farmers, and provided the USDA with a detailed economic analysis of what could occur.

Mr. President, I ask unanimous consent that my letter of December 14, 1973, be printed in the RECORD at this point in my remarks.

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

DECEMBER 14, 1973.

HON. EARL L. BUTZ,
Secretary of Agriculture,
Department of Agriculture,
Washington, D.C.

DEAR MR. SECRETARY: It has come to my attention that some segments of the tobacco industry are advocating an increase in the flue-cured marketing quota for 1974. I believe that such action would be a grave mistake and inimical to the best interest of our tobacco farmers.

As you know, the marketing quota for 1974 was set in July at 1,179 million pounds, the same as 1973, and ten percent above 1972. And as I understand it, undermarketings in 1973 could add as much as 50 million additional pounds to the 1974 quota for an effective quota of approximately 1,229 million pounds. In addition, the law permits an excess of 10 percent of quotas to be marketed without penalty. This added to the effective allotment provides a possibility of marketings of 1,347 million pounds next year under the existing quota. A ten percent increase in quota would introduce an additional possibility of 118 million pounds of marketings in 1974 for a grand total of 1.465 million pounds to be available for 1974.

Inasmuch as total disappearance this year is now estimated at 1,190 million pounds, some 275 million pounds less than possible marketings next year, the urgency for an emergency increase in the marketing quota for flue-cured tobacco loses all of its validity.

But, more importantly, is the effect that marketings of this magnitude would have on prices received by farmers. Undoubtedly, prices would fall to support levels. This year preliminary estimates of average prices received by farmers were approximately 11.5 cents per pound above the national average support price, but only about three cents above that received in 1972.

This level of prices was necessary in order for farmers to compensate for some of the additional costs of production suffered in 1973. The Index of Production Items, Interest, Taxes, and Wage Rates jumped an astronomical 18 percent in November 1973, as compared to 1972, while prices received by farmers for tobacco in 1973 increased only three percent over 1972.

There is no indication that costs will abate. As a matter of fact, all indications are just the opposite. Fuel prices are skyrocketing as are fertilizer prices. Cost of machinery and equipment are increasing faster than farmers can figure.

Therefore, any increase in the quota would appear to have a disastrous effect on the solvency of flue-cured tobacco farmers to a loss position in 1974.

As a result of my study of this situation, Mr. Secretary, I have concluded that you should not even consider further the increase advocated by the trade. Please do not make such a mistake.

With every good wish, I am

Sincerely,

HERMAN E. TALMADGE,
Chairman.

Mr. TALMADGE. Mr. President, despite my warning the Department of Agriculture put a notice in the Federal Register of December 26, 1973, that the Department was considering not only an increase, but the complete termination of the national marketing quotas and acreage allotment for flue-cured toabcco for the 1974–75 marketing year.

I again wrote to the USDA to express my strong objections. I pointed out that the USDA threat to terminate quotas altogether was only a knife held at the throat of farmers to force their acceptance of an increase in quotas. I deplored this type of blatant coercion.

Mr. President, I ask unanimous consent that my letter of January 9, 1974, be printed in the RECORD at this point in my remarks.

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

JANUARY 9, 1974.

MR. WILLIAM L. LANIER,
Director, Tobacco and Peanut Division, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, Washington, D.C.

DEAR MR. LANIER: On December 14, 1973, I wrote to Secretary Butz to express my strong opposition to any increase in the flue-cured tobacco marketing quota for 1974. I pointed out that any increase in the quota would have a disastrous effect on the solvency of flue-cured tobacco farmers.

Therefore, I was shocked and amazed when there was published in the *Federal Register* of December 26, 1973, a notice that the United States Department of Agriculture is considering not only an increase, but the complete termination of the national marketing quota and acreage allotment for flue-cured tobacco for the 1974–75 marketing year.

This would be ruinous to the American tobacco farmers. As you know, the marketing quota for 1974–75 was set in July at 1,179 million pounds, the same as in 1973, and ten percent above 1972. This quota was based upon estimated utilization of 690 million pounds domestically, 455 million pounds for exports plus an upward adjustment in excess of requirements of 34 million pounds. The Register announcement indicates the Department now feels this insufficient to meet our needs.

But what are the facts? The latest information from the Department available to me indicates that needs for 1974–75 are now estimated at 695 million pounds for domestic use and 500 million pounds for exports, for a total of 1,195 million pounds. This is 1.4 percent above the original quota announced in July of 1973.

Now, what are the supply possibilities of flue-cured tobacco for 1974–75? The quota amounts to 1,179 million pounds. And as I understand it, the base quota plus 1973's net undermarketings gives an effective quota for 1974–75 of about 1,230 million pounds. In addition, the law permits an excess of 10 percent of quotas to be marketed without penalty. This added to the effective allotment provides a possibility of 1974–75 marketings of 1,348 million pounds. Furthermore, as of November 30, 1973, flue-cured tobacco under loan totaled about 323 million pounds. Therefore, the total supply available for marketings in 1974–75 appears to be about 1,671 million pounds. This is 476 million pounds or about 40 percent more than presently estimated requirements for 1974–75.

Therefore, the need for an increase in the allotment loses its validity. The threat to terminate quotas is revealed only as a knife held at the throat of farmers to force their acceptance of an increase in quotas. This is typical of other recent actions by the USDA affecting a number of other programs.

Furthermore, marketings of the magnitude that are possible under the existing quota would have a negative impact on prices received by farmers. Undoubtedly, prices would fall to support levels.

This year preliminary estimates of average prices received by farmers were approximately 11.5 cents per pound above the national average support price, but only about three cents above that received in 1972.

This level of prices was necessary in order for farmers to compensate for some of the additional costs of production suffered in 1973. The Index of Production Items, Interest, Taxes, and Wage Rates jumped an astronomical 18 percent in November, 1973, as compared to 1972, while prices received by farmers for tobacco in 1973 increased only three percent over 1972.

There is no indication that costs will abate. As a matter of fact, all indications are just the opposite. Fuel prices are skyrocketing, as are fertilizer prices. Costs of machinery and equipment are increasing faster than farmers can figure.

Therefore, any increase in the quota would have a detrimental effect on tobacco farmers and could severely disrupt the economy of such tobacco-producing areas as South Georgia. A termination of quota is unthinkable and the USDA threat to terminate must be rejected as the kind of blatant coercion that it is.

With every good wish, I am

Sincerely,

HERMAN E. TALMADGE,
Chairman.

Mr. TALMADGE. Mr. President, incredibly, on January 14 of this year, Secretary Butz ignored my warning and increased the 1974 tobacco acreage allotment by 10 percent at the behest of the big tobacco companies.

However, since the Secretary had ignored my warnings and the economic analyses I had presented, I could do nothing but issue the strongest statement I had ever made against Secretary

Butz and his policies. These remarks seemed harsh at the time, but the prices that farmers are now receiving for their tobacco make them seem mild. My warnings of December and January have become a reality in July.

Mr. President, I ask unanimous consent that my statement of January 15, 1974, be printed in the RECORD at this point in my remarks.

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

BUTZ STOMPS GEORGIA FARMERS TO AID MAJOR CORPORATE INTERESTS, TALMADGE SAYS

WASHINGTON.—Senator Herman E. Talmadge of Georgia, Chairman of the Committee on Agriculture and Forestry, lashed out at Agriculture Secretary Butz today for increasing the flue-cured tobacco allotment and thereby "poking holes in the pocket books of small farmers."

Butz announced the increase in the allotment late yesterday. Talmadge responded by predicting that the move could cut tobacco prices paid to farmers by more than five cents a pound in the face of drastically increasing production costs charged by the inflationary spiral. The Georgia Senator had written to USDA officials on December 14, 1973 and January 9, 1974, strongly objecting to any increase in flue-cured tobacco quotas.

Talmadge said the decision to increase the allotment was obviously made after Department of Agriculture officials met with large corporate tobacco buyers who requested the increased planting. "Tobacco farmers usually think that the buyers are trying to get their tobacco at depression-level prices, and in this case they are evidently correct."

As for Secretary Butz, the Senator said, "Dr. Butz likes to travel around the country portraying himself as the saviour of the American farmer, but in this instance, as with the continuing effort to gut the peanut program, he's leading the farmers in my State down the road to ruin. That's hardly the role you would expect of a saviour."

Talmadge pointed out that he had tried, and that the farmers had tried to get the Department of Agriculture to avoid making decisions on the peanut and tobacco programs which would cause economic hardship for family farmers, "But there is an innate hard-headedness in this Administration which transcends economic reason. Not since Sherman marched through Georgia have we witnessed such a brutal attack on our farm economy."

Talmadge recommended to farmers that at harvest time when the full force of these measures was felt in their bank accounts, they write to Butz and ask, "Why, Mr. Secretary" "Why?"

Mr. TALMADGE. Mr. President, my office has been swamped with telephone calls from irate farmers who see a year's work being sold for a pittance.

This administration, despite my early warnings, has taken it upon itself to reduce income to tobacco farmers at a time when fuel, fertilizer, herbicides, farm machinery, labor, and all other farm inputs are from 20 to 50 percent higher now than in 1973.

We have just gone through the exercise of pushing through emergency legislation to save the livestock industry because of bungling by this administration in tinkering with the beef marketing system.

The rhetoric of this administration on the economy is above reproach. But as former Attorney General Mitchell once said, "Watch what we do, not what we say." I have been watching all right—watching one grand foulup after another that has plunged this Nation into economic chaos.

Rhetoric is not enough. My tobacco farmers have had it with fine words and promises. They are paying in a very literal way for the mistakes made by Secretary Butz.

Now I call on the Secretary to bail himself out of this mess immediately, without the Congress having to go through the time-consuming process of doing it for him. Farmers are losing money right now—today.

The big tobacco corporations got the Secretary in this jam by getting him to increase acreage. Now let them get him out.

I urge the Secretary to call a national meeting of the big tobacco corporations so that he can ask them to pay tobacco farmers the prices they must have to survive.

The companies have done themselves no favors by cutting the heart out of the income of their suppliers.

After an investigation of possible collusion among buyers last year by the staff of the Committee on Agriculture and Forestry, I asked USDA to conduct a thorough investigation of its own.

The USDA coordinated this request with the Antitrust Division of the Justice Department which initiated a full-scale investigation. USDA is actively assisting the Antitrust Division in this effort and I have today asked that these investigations move into the tobacco warehouses now. I urge the Secretary to intensify these investigations of buyer collusion and bring them quickly to a head.

Farmers cannot withstand the onslaught of increased costs in the face of lower prices. They must be protected. Prices must improve immediately before the whole crop is lost.

QUORUM CALL

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

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

PERIOD FOR 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 for not to exceed 10 minutes, with statements therein limited to 2 minutes.

YEAR-ROUND DAYLIGHT SAVING TIME

Mr. TAFT. Mr. President, the Department of Transportation recently released its report on the effects and results of winter daylight saving time. The findings of the report are inconclusive, however, the report does recommend that the second year of year-round daylight saving time be amended to provide that during that year, the Nation observe DST for 8 months of the year and standard time for the remainder, from the last Sunday in October 1974 through the last Sunday in February 1975.

The report states that after the January 6, 1974 DST transition, the effects were so small that they could not in general be reliably separated from effects of other changes occurring at the time. These other changes included fuel availability constraints, speed limit reductions, Sunday gasoline station closings, and voluntary reductions in the use of lighting, heating, and unnecessary travel.

Year-round daylight saving time may have resulted in a flattening of the daily peakloads and a decrease on the order of 0.75 percent in electricity consumption for January and February. Savings of approximately 1 percent for March and April in fuel consumption for electricity production are inferred only from the experience of transitions to DST in previous years.

Savings of 1 percent of our electricity consumption translates into six-tenths of 1 percent of our daily consumption of 17 million barrels of oil per day. The report states that the predominant fuel saved is coal, but we are not short of coal. The estimated savings of oil, the commodity in shortest supply, is miniscule, 14,500 barrels a day.

The Department's report concludes that travel and gasoline use were down during January and February, but up on March and April. Analyses of heating fuel effects of year-round daylight saving time were inconclusive.

No significant effects on traffic safety can be attributed to winter daylight saving time, according to the report. The decline in motor vehicle fatalities in January through March, 1974, as compared to those months of 1973, are largely attributable to the lowering of speed limits and restrictions on the availability of gasoline. While there was an increase in schoolchildren fatalities during the hours of 6 a.m. to 9 a.m. in February 1974 versus February 1973, there was a decrease in fatalities occurring in the early evening hours.

Reports from 37 States and the District of Columbia indicate that school districts in 18 States advanced their school hours because of the problems of dark mornings.

In my State of Ohio, the Columbus Board of Education noted fears of parents whose children had to go to school in the darkness last winter. The board sent questionnaires to parents asking if a later school opening would be beneficial and helpful. The problems caused by dark mornings have been severe in Ohio. Working parents have schedule conflicts in driving their children to school, yet they do not want them to walk in the dark. Even in March, on the western side of the eastern standard time zone, where I live, people had to drive with lights on after 8:15 a.m. As

a result, 66.4 percent of the schools indicated they would prefer a later starting time. However, the school board has not yet changed the schedule because it is waiting to see if the Congress will take action and repeal winter daylight saving time. The people in Ohio overwhelmingly reject winter DST.

Last March, the Senate had an opportunity to repeal winter DST in acting on my amendment to the minimum wage bill. The amendment, as modified, would have ended winter daylight saving time from the last Sunday in October until the last Sunday in April. The amendment was defeated in the Senate by the slim margin of 48 to 43.

One of the arguments against my proposal was that it might be thrown out in the House-Senate conference on the minimum wage legislation.

Another argument of the opposition was that we had no conclusive evidence on the effects of year-round daylight saving time, and should at least wait until the Department of Transportation report was available for study, before repealing our law. At that time, the chairman of the Commerce Committee promised hearings on the report "just as soon as it was available." It is now available and I believe we should go ahead with hearings as quickly as possible.

Well, the DOT report has been available since July 1, and it still does not give us any conclusive evidence on the effects of year-round daylight saving time. It does, however, recommend that winter DST be discontinued from the last Sunday in October through the last Sunday in February.

I have asked for hearings on the report soon, and I will ask again. My constituents will not be satisfied until the law is changed. The press reports of the DOT findings, or lack of them, have regenerated the mail on this subject from anxious parents and others who are affected adversely.

School starts early in September, and some few places in August. We must act now, if we are to act responsively and responsibly for our constituents on this problem.

I yield back the remainder of my time.

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

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BIBLE, from the Committee on Interior and Insular Affairs, with amendments:

S. 3700. A bill to provide for the establishment of the Clara Barton House National Historic Site in the State of Maryland, and for other purposes (Rept. No. 93–1020).

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

S. 754. A bill to give effect to the sixth amendment right to a speedy trial for persons charged with criminal offenses and to reduce the danger of recidivism by strengthening the supervision over persons released pending trial, and for other purposes (Rept. No. 93–1021).

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

H.R. 5094. An act to amend title 5, United States Code, to provide for the reclassification of positions of deputy U.S. marshal, and for other purposes (Rept. No. 93–1022).

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. SCHWEIKER:

S. 3776. A bill to provide individuals serving as grand or petit jurors certain employment rights. Referred to the Committee on the Judiciary.

By Mr. CHURCH (for himself and Mr. McCLURE):

S. 3777. A bill to authorize the establishment of city of Rocks National Monument in the State of Idaho, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

By Mr. MATHIAS:

S. 3778. A bill for the relief of Monica Ribandeneira. Referred to the Committee on the Judiciary.

By Mr. DOLE:

S. 3779. A bill to amend chapter 37 of title 38, United States Code, to improve the basic provisions of the veterans farm and business loan programs. Referred to the Committee on Veterans Affairs.

By Mr. BENTSEN:

S. 3780. A bill for the relief of Choi Soon Yung. Referred to the Committee on the Judiciary.

By Mr. BEALL:

S. 3781. A bill to amend chapter 55 of title 10, United States Code, to provide maternity benefits to wives of certain former members of the uniformed services and to certain former female members. Referred to the Committee on Armed Services.

By Mr. JAVITS (for himself, Mr. KENNEDY, Mr. TAFT, Mr. WILLIAMS, Mr. HATHAWAY, Mr. CRANSTON, Mr. PELL, Mr. BEALL, Mr. HUGHES, Mr. STAFFORD, Mr. SCHWEIKER, Mr. RANDOLPH, Mr. DOMINICK, and Mr. EAGLETON):

S. 3782. A bill to amend the Public Health Service Act to extend for one year the authorization of appropriations for Federal capital contributions into the student loan funds of health professions education schools. Ordered to be placed on the calendar.

By Mr. FULBRIGHT:

S. 3783. A bill to implement certain provisions of the International Convention on Fishing and Conservation of the Living Resources of the High Seas, and for other purposes. Referred to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BEALL:

S. 3781. A bill to amend chapter 55 of title 10, United States Code, to provide maternity benefits to wives of certain former members of the uniformed services and to certain former female members. Referred to the Committee on Armed Services.

Mr. BEALL. Mr. President, I send to the desk a bill to provide maternity benefits to the wives of certain former servicemen and to certain former servicewomen.

This legislation is prompted by a letter from the father of a former serviceman from Baltimore County who called to my attention this problem based on his son's experience, which more than any argument I could advance, makes the case for remedial action.

The constituent in his letter to me pointed out that his son was honorably discharged from the military on February 8, 1974, at the rank of sergeant, after 4 years of service in the U.S. Air Force.

During his period of service, the sergeant was married and at the time of his discharge his wife was pregnant. Upon leaving the military his armed services medical coverage, including the provisions for maternity care, was terminated. It is obvious that the sergeant would find it virtually impossible to purchase private insurance that would reasonably cover his wife's pregnancy. This is because premiums for health insurance are essentially based on the risk assumed by the insurer. For all practical purposes, the risk of hospitalization for a woman already pregnant is 100 percent.

Therefore, premiums would have to be based on the total cost of maternity care. The sergeant, of course, following his discharge could have purchased private insurance, but such private insurance policies would have included a provision excluding benefits for pregnancies existing prior to the commencement of the policy.

The lack of insurability in this case is often compounded by unemployment suffered by the veterans. Mr. President, I agree with the sergeant's father who said in his letter to me that—

> It seems inequitable to me that the Government would discharge a young man without continuing benefits for this situation. He is now unemployed with limited funds from his separation and unable to purchase the needed insurance. Is there something that he can do to obtain medical services for his wife and the soon-to-be-born baby?

Fortunately, since our correspondence, the sergeant has found employment. But even if an individual were to find immediate employment upon leaving the military, the loss of his maternity care insurance would work a significant financial hardship on the individual. In the case of the sergeant in question, the total cost for maternity care was $2,230. This particular case was not typical since some complications were involved, but the average cost is nevertheless substantial, $800.

Mr. President, I ask unanimous consent that the full text of the bill be included at the conclusion of my remarks.

I urge the Senate Armed Services Committee and the full Senate to give favorable consideration to this measure.

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

S. 3781

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) chapter 55 of title 10, United States Code, is amended by adding at the end thereof a new section as follows:

"§ 1089. Maternity care for pregnant wives of certain former members and for certain former female members

"(a) In any case in which the wife of a member of a uniformed service is pregnant at the time her husband is discharged or released from active duty under honorable conditions after having served on active duty for a period of more than 30 days, the Secretary of Defense shall provide such wife with health benefits in connection with that pregnancy under section 1076 or 1079 of this title, as appropriate.

"(b) In any case in which a member of a uniformed service is pregnant at the time of her discharge or release from active duty under honorable conditions after having served on active duty for a period of more than 30 days, the Secretary of Defense shall provide such former member with health benefits in connection with that pregnancy under section 1076 of this title."

(b) The table of sections at the beginning of chapter 55 of such title is amended by adding at the end thereof the following:

"1089. Maternity care for pregnant wives of certain former members and for certain former female members."

SEC. 2. No benefits shall be paid to any person for a period prior to the date of enactment of this Act by virtue the amendments made by the first section of this Act.

By Mr. SCHWEIKER:

S. 3776. A bill to provide individuals serving as grand or petit jurors certain employment rights. Referred to the Committee on the Judiciary.

Mr. SCHWEIKER. Mr. President, I am introducing legislation today to guarantee that every person serving on a jury in the United States will have the right to return to his or her prior employment when jury service is completed.

Everyone knows the sixth and seventh amendments to our Constitution guarantee the right to trial by jury. Few people realize, however, that the overwhelming majority of jurors risk discharge by their employers as soon as they accept jury duty, and the juror who is not permitted to return to his prior job does not have any legal remedy, under either State or Federal law.

Historically, this has not been such a critical problem, because the frequency and the duration of jury trials were relatively low and short, and most employers tolerated the brief absences caused by jury duty. Today, expanded procedural safeguards have resulted in increasingly prolonged trials, and the incidence of jury trials has sharply increased. Indeed, in the Federal courts alone, there were over 70,000 jury trials during the 10-year period ended in 1973, which means that theoretically more than 840,000 American citizens could have been dismissed from their employment, without redress, simply for accepting the constitutional responsibility to serve as Federal jurors.

This situation was called to my attention by James A. Villanova, an assistant U.S. attorney serving in Pittsburgh. Mr. Villanova sent me two newspaper clippings—which I ask unanimous consent be printed in the RECORD in full following my remarks—detailing how two Watergate grand jurors were fired outright, and two others requested to be relieved to protect their employment. In addition, two jurors in the Mitchell-Stans trial were discharged by their employers. These are only the most publicized examples of persons who have been economically penalized simply for trying to be good citizens. Mr. Villanova informs me that this problem is pervasive, and that it is consequently increasingly difficult to find jurors who are willing to serve.

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

Mr. SCHWEIKER. Mr. President, jury duty is vital to our system of government. The jury is an institution which not only protects the legal rights of litigants, but also puts into practice our commitment to "government by the people." Aside from voting and paying taxes, jury duty represents the most direct participation which many of our citizens ever have in a governmental function. If we permit the price of this civic participation to be loss of employment, we should not be surprised that citizens shirk involvement in Government, or that the public confidence in Government continues to decline.

My bill would extend to citizens drafted for jury service the same basic reemployment protection granted to citizens called to military service. It would apply to jurors serving on both State and Federal juries, including grand jurors and trial—petit—jurors alike. This bill has the following major provisions:

First, any employee—except a temporary worker—who applies for reemployment within 15 days after completion of jury duty must be rehired with his former seniority, status, and pay, provided he receives a certificate from the court verifying his service. In the event that some disability sustained during jury duty renders him unqualified for his former position, he must be restored to the nearest reasonable approximation of his previous job.

Second, my bill provides that any employee restored to his position shall be considered to have been on furlough or leave of absence during his jury service for purposes of insurance and other employment benefits, and that such employee cannot be discharged without cause for a 1-year period thereafter.

Third, original jurisdiction is created in the Federal district courts to grant money damages under this measure, regardless of the amount of controversy, and the district courts are required to give precedence to recovery actions filed under this bill.

Finally, the U.S. attorney is required to act as attorney for any person seeking relief under this measure, and no attorney fees or court costs may be charged.

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

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

S. 3776

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) chapter 121 of title 28, United States Code, is amended by adding at the end thereof the following new section:

"§ 1875. Employment rights

"(a) In the case of any individual who leaves a position (other than a temporary position) in the employ of any employer to perform jury service and who receives a certificate from the court verifying such service, and makes application, within fifteen days after he is relieved from such service, to be reemployed in such position—

"(1) if such position was in the employ of a private employer, such individual shall—

"(A) if still qualified to perform the duties of such position, be restored by such employer or his successor in interest to such position or to a position of like seniority, status, and pay; or

"(B) if not qualified to perform the duties of such position by reason of disability sustained during the period of any such service but qualified to perform the duties of any other position in the employ of such employer or his successor in interest, be restored by such employer or his successor in interest to such other position the duties of which he is qualified to perform as will provide him like seniority, status, and pay, or the nearest approximation thereof consistent with the circumstances in his case;

unless the employer's circumstances have so changed as to make it impossible or unreasonable to do so; or

"(2) if such position was in the employ of any State or political subdivision thereof, it is declared to be the sense of the Congress that such individual should—

"(A) if still qualified to perform the duties of such position, be restored to such position or to a position of like seniority, status, and pay; or

"(B) if not qualified to perform the duties of such position by reason of disability sustained during the period of such service but qualified to perform the duties of any other position in the employ of the employer, be restored to such other position the duties of which he is qualified to perform as will provide him like seniority, status, and pay, or the nearest approximation thereof consistent with the circumstances in his case.

"(b)(1) Any individual who is restored to a position in accordance with the provisions of paragraph (1) of subsection (a) of this section shall be considered as having been on furlough or leave of absence during his period of jury service, shall be so restored without loss of seniority, shall be entitled to participate in insurance or other benefits offered by the employer pursuant to establishing rules and practices relating to employees on furlough or leave of absence in effect with the employer at the time such individual entered upon jury service, and shall not be discharged from such position without cause within one year after such restoration.

"(2) It is declared to be the sense of the Congress that any individual who is restored to a position in accordance with the provisions of paragraph (1) of subsection (a) of this section should be so restored in such manner as to give such individual such status in his employment as he would have enjoyed if he had continued in such employment continuously from the time of his entering upon jury service until the time of his restoration to such employment.

"(c) In any case in which two or more individuals who are entitled to be restored to a position under the provisions of this section or of any other law relating to similar reemployment benefits left the same position in order to enter upon jury service, the individual who left such position first shall have the prior right to be restored thereto, without prejudice to the reemployment rights of any other individual to be restored.

"(d) For purposes of this section, the term 'jury service' includes service upon any grand or petit jury of the United States, the District of Columbia, or any territory or possession, or of any State or political subdivision thereof.".

(b) The analysis of such chapter 121 is amended by adding at the end thereof the following new item:

"1875. Employment rights.".

SEC. 2. (a) Chapter 85 of such title is amended by adding at the end thereof the following new section:

"§ 1364. Employment rights of jurors

"(a) The district courts shall have original jurisdiction, without regard to the amount in controversy, to require any private employer to comply with the provisions of section 1875 of this title and to award damages for any loss of wages or other benefits suffered by reason of such employer's action.

"(b) The district courts shall give precedence to civil actions brought under this section. Upon application of any individual claiming entitlement to the benefits of section 1875 of this title, the United States attorney for the district in which the employer charged with a violation of such section maintains a place of business shall, if reasonably satisfied that the individual making application is entitled to such benefits, appear and act as attorney for such individual in any action necessary to require such employer to comply with such section. No fees or court costs may be taxed against any individual bringing any action under such section. Only the employer shall be deemed a necessary party to any such action."

(b) The analysis of such chapter is amended by adding at the end thereof the following new item:

"1364. Employment rights of jurors.".

EXHIBIT 1

WATERGATE DUTY TOUGH ON JURORS—TWO QUIT TO SAVE BUSINESS INTERESTS; TWO OTHERS LOSE JOBS

WASHINGTON.—Low pay and long hours have taken their toll on at least two of three grand juries investigating the Watergate break-in conspiracy.

Two persons have quit the jury to protect their businesses and two others have lost their jobs.

"BEGINNING TO DRAG"

The foreman of the official grand jury, which was empaneled nearly 19 months ago, says that jury is "beginning to drag" as the investigation wears on.

"Jury duty is usually Tuesday, Wednesday and Thursday so the heart is taken out of the business week," Julian G. Murphy, a Washington insurance salesman, said yesterday.

Murphy was one of two persons on the grand jury convened last August who asked to be relieved of his duties.

Chief Judge John J. Sirica granted Murphy's request along with that of Margaret Henry.

CITES "FATIGUE PROBLEM"

Murphy, 53, said he was suffering financially because the $20 per diem paid to the jurors did not make up for lost insurance business and he added "there is a fatigue problem, especially for the middle aged."

"You have to work nights and to go to the jury days," he said. "I had only three days vacation with my family."

The original grand jury was first called together in June 1972 and was expected to be in session only two months to deal with narcotics cases.

JURIES ADDED

But the Watergate break-in was discovered June 17, 1972, and the jurors have been pursuing the case ever since with the aid of two more recently installed juries. The two other grand juries have been empaneled since then.

"Most of them want to see this thing through, but it has been dragging on," foreman Vladimir N. Pregelj of the original jury said. "The jurors are sometimes beginning to drag.

"This (case) has been going on a long, long time and we'd like to get it over with as soon as possible."

The original jurors have met 98 separate days in the last 19 months, sometimes with little advance warning.

Pregelj said they "feel a sense of the seriousness and importance of the case and what we're doing," but their recent attempts to obtain more per diem pay brought to light some problems involved in shepherding the nation's no. 1 criminal case through the courts.

SOUGHT $25 PER DIEM

The jurors claimed they were entitled to $25 per diem instead of the normal $20.

Judge Sirica agreed, and asked that the increase for the 12 jurors involved be retroactive. The 11 other jurors are civil servants who receive full government pay but no per diem while on jury duty.

The administrative office of United States courts granted the increase, but would not make it retroactive. The jurors have asked the special Watergate prosecutor's office to intervene.

The two original jurors who need the money most are those who lost their jobs while on the jury.

"One woman was dismissed outright and the other was given so much harassment by her employer she was forced to resign," Pregelj said. He said both women are secretaries but he would not identify them or their former employers.

He said neither woman had been able to find another job.

"Imagine if you were an employer and someone asked for a job but said they couldn't work every day and sometimes would have to take two or three days a week off," Pregelj said. "Would you hire them?"

The women told Pregelj they were not qualified to receive unemployment compensation because their grand jury demands made them "unemployable."

TWO STANS JURYMEN LOSE JOBS

NEW YORK.—Two of the jurors in the Mitchell-Stans trial have lost their jobs. The employers in each case say the firings were the result of staff cutbacks.

U.S. District Court Judge Lee P. Gagliardi, who presided at the trial in which former U.S. Attorney General John N. Mitchell and ex-Commerce Secretary Maurice H. Stans were acquitted, said he was looking into the situation.

Rolando DeTouche, 33, a provisional assistant engineer-technician in the New York City Department of Transportation, was told after the trial that he was one of 2,500 provisional city employes being laid off for economy reasons.

DeTouche, who held the job for five years, said he got the bad news when he asked for several days off to hold a family reunion after being sequestered for 10 weeks.

"I was told I could have plenty of time off from now on," DeTouche said. "I was stunned."

The other juror, Theresa Cavanna, an insurance clerk with the Maryland Casualty Co. for 13 years, said that when she returned to work Monday she was told that her job had been eliminated as part of a general cutback in staff.

By Mr. CHURCH (for himself and Mr. MCCLURE):

S. 3777. A bill to authorize the establishment of City of Rocks National Monument in the State of Idaho, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

Mr. CHURCH. Mr. President, on behalf of my distinguished colleague from Idaho (Mr. MCCLURE) and myself, I introduce for appropriate reference a bill to authorize the establishment of a City of Rocks National Monument in Idaho.

At the urging of many Idahoans, including especially those people who live in close proximity to the Silent City of Rocks, and those ranchers who graze their cattle in the area, I am happy to introduce this legislation which is also being submitted, today, by Idaho's Congressmen ORVAL HANSEN and STEVE SYMMS.

Of particular concern to local residents is the threat of vandalism and defacement to the rock formations themselves. Each passing year sees an increased flow of visitors to the area and ranchers have cited instances of interference with their grazing operations as a result of unregulated visits.

Presently designated a national historic landmark, the City of Rocks is located in south-central Idaho, just south of Burley, Idaho, on the headwaters of the Raft River. The City of Rocks National Monument would comprise approximately 32,000 acres of which no more than 3,000 acres would comprise a "core area," the principal portion of the monument area in which the unique rock formations are located. With national monument status the National Park Service can provide protection and interpretation of the area's unique geologic, scientific, historic, and scenic features.

The rocks form elaborate sculptures of deeply eroded granite spires, rims, and boulders—some of which have an estimated age of 2½ billion years. Geologists say this area has a remarkable record of faulting and folding, and they stress the importance of its study. The national park system, in which the national monument would be included, contains no other phenomena of eroded granite and genesis domes similar to those displayed here.

This spectacular area of monolithic outcroppings and overhangs attracted early man, and already one ancient campsite is under study by archeologists. It is anticipated that further sites will be discovered.

Two historic Shoshoni Indian winter villages are known to have existed nearby, and it is known that as recently as the 1900's Indians camped in the area.

But it is not just the geologic and archeologic values that makes the City of Rocks meritorious as a national monument. During the great westward migration of America, the City of Rocks became famous as a stopping place on the Oregon and California Trail. The City of Rocks afforded the emigrants passage around hazardous marshes on the upper Raft River, water, good campsites, and pasture for animals. It became a spot for rest, and travelers of the 1800's wrote their names on the strange formations, many of these rosters can be seen today.

Settlement of the area did not occur until the mid-1870's, at which time settlers had begun ranching and grazing cattle in the area. A log-cabin store was opened, and a school and church established on the north side of Almo Creek. Although some dry farm wheat has been grown in the past, the land is now generally used for pasture. Ranching is the primary occupation of the area and the

proposed monument lands have served these ranching families for decades.

The authors of this bill intend that these grazing operations be allowed to continue subject only to those limitations consistent with the purposes of the monument. In discussing this proposal with many of the ranchers, I know their desire is to protect the area and to continue their grazing operations. We seek to attain these goals by calling for creation of a national monument while including specific provisions to protect grazing and to prevent the use of condemnation.

Mr. President, the bill I introduce today is a simple one. I want to reiterate that this proposal is merely a beginning, the final bill will be determined after public hearings and consideration in committee and then by both Houses of Congress. But, I do believe our proposal will provide the framework necessary to begin the task of creating a City of Rocks National Monument.

The Nation will soon celebrate its 200th birthday. For Idahoans, inclusion of this area in the national park system will be a fitting tribute to our national heritage.

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

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

S. 3777

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) in order to preserve for the benefit and enjoyment of present and future generations an area containing outstanding geological formations and unique historical values, including the passage of thousands of emigrating Americans pursuing expectations of new lives in the West, the Secretary of the Interior (hereinafter referred to as the "Secretary") is authorized to acquire lands and interests therein for the establishment of the City of Rocks National Monument.

(b) The City of Rocks National Monument shall comprise the lands generally depicted on the map entitled "———", Number "———" and dated ———, which shall be kept on file and available for public inspections in the office of the Director, National Park Service, Department of Interior, and in the office of the Assistant to the Regional Director of the Pacific Northwest Region, National Park Service, Boise, Idaho; Provided, however, that such area shall not exceed 32,000 acres. Within the boundaries of the national monument; said map shall also outline the boundaries of a "Core Area" which shall not exceed 3,000 acres.

(c) The Secretary shall establish the monument by publication of a notice to that effect in the "Federal Register" at such times as he determines that sufficient property to constitute an administerable unit has been acquired.

SEC. 2. (a) The Secretary is authorized to acquire by donation, purchase with donated or appropriated funds, exchange or bequest such lands, or interests therein, including scenic easements, which he determines are needed for the purposes of this Act.

(b) Notwithstanding any other provision of law, any Federal property located within the boundaries of the monument may, with the concurrence of the agency having custody thereof, be transferred without consideration to the administrative jurisdiction of the Secretary for use by him in carrying out the purposes of this Act.

(c) Any land or interest in land owned by the State of Idaho or any of its political subdivisions may be acquired by exchange.

(d) In exercising the authority to acquire property by exchange, the Secretary may accept title to any non-Federal property, or interest therein, located within the monument; and notwithstanding any other provision of law, he may convey in exchange therefor any federally owned property within the State of Idaho which he classifies as suitable for exchange and which is under his administrative jurisdiction. The values of the properties so exchanged shall be approximately equal or, if they are not approximately equal, they shall be equalized by the payment of cash to the grantor or to the Secretary as the circumstances require.

SEC. 3. The grazing use of public land outside the Core Area but included within the boundaries of the City of Rocks National Monument shall, upon enactment of this Act, be deemed to be a use compatible with the purposes of such monument and the provisions of this Act.

SEC. 4. Pending establishment of the monument and thereafter, the Secretary shall administer property acquired pursuant to this Act in accordance with the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 1, 2–4), as amended and supplemented, and the Act of August 21, 1935 (49 Stat. 666; 16 U.S.C. 461–467), as amended.

SEC. 5. There is hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act.

Mr. McCLURE. Mr. President, today I cosponsor a bill to provide for the establishment of the City of Rocks National Monument in the State of Idaho. The City of Rocks is an area in southern Idaho which combines outstanding geological formations and historical values against a background of exceptional scenic grandeur.

The Albion Mountain Range runs down through this area, and it has a geologic history that goes back more than 2½ billion years. The basic crystalline complex of the range was buried by tons of newer rocks which resulted in high temperatures and extreme pressures at great depths below the Earth's surface. As time passed, this overburden of new rocks was uplifted and finally after 10 miles of vertical uplift, the ancient rocks which formed the base of the mountain range were exposed by erosion. Some geologists claim that some of the ancient rocks originated far to the West and were moved to this area on thrust faults. And so, the area is one where great and interesting scientific debate abounds.

As a result of the erosion process, the unique monoliths of eroded granite were exposed, and it is this area that we know as the City of Rocks. Aside from the outstanding geologic history that the City of Rocks tells us, the area is also important for its "mantled gneiss domes." As its name implies, this is a structural uplift, or dome, generally covered by the foliated metamorphic rock called "gneiss." Throughout the world, gneiss domes usually form the exposed cores of any great mountain chain's hinterlands. Although many gneiss domes do exist, few are so easily seen and interpreted as those in the City of Rocks area.

And the City of Rocks also has historical values. Ancient people found there among these strange rock formations, some protection from a hostile environment. Archeologists believe that prehistoric people lived in the area of the City of Rocks, and there is one known ancient campsite to back that up. It is known that there were at least two large historic Shoshoni Indian winter villages and that as recently as the 1900's, Indians camped in the area.

But the most important historical value of the City of Rocks is the role it played in the great westward migration during the 1800's. The movement of thousands of emigrants across plains and mountains to the Far West was a dramatic event unduplicated in our history. The tenacity, bravery, and energy of those pioneers is legendary in the annals of American achievement. During the 19th century, the picturesque City of Rocks was the junction of a number of transportation routes where thousands of these emigrating Americans paused while pursuing their hopes and expectations for a new life in the West. The westward migration and each ensuing frontier settlement born out of this far-flung frontier movement have provided this Nation with a unique heritage of dynamic struggle in colonizing a continent—and the City of Rocks was instrumental in that movement.

The overland migrations were composed of three significant population movements: the optimistic pioneer farmers moving into the fertile valleys of California and Oregon; the persevering Mormons, searching for an area where they might live in peace; and the hordes of Forty-Niners heading West with visions of quick and easy wealth. Thus, the westward migration of Americans resulted from a combination of circumstances and motives. But beneath it all was a desire to improve their prospects for the good life whether expressed in terms of land or gold or simply the freedom to pursue happiness.

The longest, most significant and most heavily traveled route of overland migration during the 19th century was that known as the "Oregon Trail." It was the sole artery of overland travel to Oregon and later became the most important access route to the California Gold Rush of 1849. And the early pioneers were constantly searching for new travel routes in order to avoid such menacing barriers as the Salt Desert and the Great Salt Lake. The City of Rocks, sometimes called the "Silent City of Rocks," owes much of its prominence to the proximity of these everchanging historic routes. The first practicable route to California, going north of the Great Salt Lake, passed directly through the City of Rocks area.

During the earlier years, this route was spoken of as the "California Trail." But after 1846, it was sometimes referred to as the "Applegate Trail" due to its use by Oregon-bound emigrants who wished to enter the Willamette Valley from the South. In this instance, it served as an alternate route to the Oregon Trail.

In 1848, a new connection to the California trail was established from the Mormon settlement at Salt Lake to a junction with the orginal California trail. This new connection went just south of the Twin Sisters in Emigrant Canyon in the City of Rocks. This route later became the main emigrant thoroughfare and was known as the Salt Lake Cutoff.

The City of Rocks area provided emigrants with a passage around the hazardous marshes of the upper Raft River, good campsites, plenty of water, and pasturage for their animals. Their arrival at City of Rocks was usually an occasion for a rest and an interesting respite from the arduous journey. As they climbed over the unusual rock formations of eroded granite, many of these rocks became covered with the names of those who passed by on the trail. I can well imagine that the members of the wagon trains not only added their names to the roster, but searched the rocks for the names of relatives and friends who had preceded them westward.

To the emigrant, the City of Rocks was the portal to a new and unpleasant adventure, a change from the comparatively easy pull through the Platte and Snake River Basins to the arid, danger-ridden Great Basin. City of Rocks, with its rugged skyline, portended rough passage through Granite Pass ahead and a descent to hardship in the bleak Humboldt Valley beyond. Here, at City of Rocks, amidst the apprehensive view, was a chance for forage, rest, and merriment before embarking on a new regime of travel. City of Rocks, too, was a relief from past boredom of travel, a place for wonderment among the granite pinnacles, such a contrast from the easterly plains.

It is not difficult to imagine the emigrants' hardships as they crossed southern Idaho en route to Oregon and California some 120 years ago. Mute evidence of their crossing still remains—worn rock ledges and old junipers that bear scars of the ropes and handmade chains used to help loaded wagons down steep grades, the ruts of the wagon wheels, handmade oxshoes, horseshoes, and lengths of chain and various pieces of metal rusting in dry washes and on sagebrush flats.

And so we have an area which is nothing less than an epilog of people, land, and events. The beautiful and unusual geological formations as well as the historical values of City of Rocks are superlative. In addition, there is an abundance of interesting plants and animals in the area. The delicately balanced blending that characterizes this area's collective resources—natural, historical, cultural, and scientific—ascribe a special significance and appeal to the area. And I think that these resources must be preserved in some manner.

The City of Rocks was designated a national historic landmark in 1963 and a national natural landmark in 1974. The national park system contains no other phenomena of eroded granite and gneiss domes similar to those displayed in the City of Rocks area, and nowhere in the entire system is there emphasis on the California trail and the people who used it. It is for these reasons as well as the desire to preserve the area that I cosponsor this bill today.

By Mr. DOLE:

S. 3779. A bill to amend chapter 37 of title 38, United States Code, to improve the basic provisions of the veterans farm and business loan programs. (Referred to the Committee on Veterans Affairs.)

VA FARM AND BUSINESS LOANS FOR VIETNAM VETERANS

Mr. DOLE. Mr. President, I am introducing a bill today to make Vietnam veterans eligible for the VA business loan program and to raise the lending levels under the VA business and farm loan programs to a meaningful level. VA loan guarantees would be increased to $100,000 for farm loans and $219,000 for business loans.

The purpose of this bill is to help those Vietnam-era veterans in Kansas and other States who are trying to start their own businesses or farms. World War II veterans received VA assistance in getting started in their own businesses. Many of us here benefited from these loan programs. I challenge any member of the Senate or anyone else to explain to me why Vietnam veterans earned an equivalent award any less than veterans of World War II or any other war.

ASSISTANCE NEEDED MORE THAN EVER

The difficulty of veterans getting started in farming and business these days is even greater now than it was 25 years ago. Veterans need realistic farm and business loan programs even more now than we did in the earlier era.

The difficulties of a young veteran trying to get started in farming are especially acute. In trying to buy farmland, he faces prices that rose 13 percent in fiscal year 1973 and 25 percent in fiscal year 1974. Farm real estate values are expected to rise another 15 percent during 1975. And these figures are on a nationwide average. Farm landprices have risen even more sharply in Kansas and other major agriculture States. For example, land which sold at $200 an acre in 1971 or 1972 is now selling for $500 to $1,000 per acre. In an area where a young farmer normally needs at least 160 acres or more to make a living, as in Kansas, the size of the investment is tremendous.

FARM EXPENSES SOARING

And the cost of farm real estate is only part of the problem. Agricultural expenses have doubled and even tripled in the past year or so. Fertilizer prices are two or three times as high as last year, and in some cases of imported or "blackmarket" fertilizer, the prices are six or seven times as high as last year. The price of fuel has nearly doubled. The cost of equipment has also risen sharply.

All of these increased expenditures make it harder for a young farmer to get started, and veterans interested in farming are generally young men facing these difficulties.

This country needs young farmers perhaps more than ever in its history. With the tremendous migration of our population from rural to urban areas, we have seen a trend where a large number of our farmers are approaching retirement age. Because of the expense and difficulty of the agriculture business, many young men choose an urban job and a steady income instead of the continual risk involved in farming.

At the same time, we are seeing a trend where food is increasingly becoming the No. 1 issue in the world. The food production requirements placed on American farmers have increased sharply in the past 2 years and are expected to continue to increase in the future. This is why we need more young farmers.

Veterans going into farming, by and large, would be young farmers. They would help insure a continuity of expertise in our agriculture industries.

LOAN LEVEL GROSSLY INADEQUATE

Mr. President, we see that the level of loan garantees provided under the VA farm loan program is totally inadequate. A maximum limit of $4,000 on real estate and $2,000 on non-real estate loans is reminiscent of an era 25 years ago.

As I have already outlined, the cost of getting started in agriculture is many, many times this amount. Agriculture is one of the most capital-intensive industries and a loan limitation of $100,000, as my bill provides, is hardly excessive. This is the lending level of Farmers Home Administration, and I certainly believe that veterans should be eligible for the same level of assistance as other young men.

SIMILAR CONDITIONS IN BUSINESS

Mr. President, the situation of a young man trying to start his own business is similar to that of a young farmer. The expenses of real estate and property have skyrocketed.

In order to be competitive in today's industry, the small independent businessman must be able to operate on a size and efficiency adequate to enable him to be competitive. The young veteran trying to get started in his own enterprise faces a tremendous problem.

We see that the Vietnam-era veteran is not even eligible for the VA business loan guarantees. My bill corrects this situation by making Vietnam-era veterans eligible for the program.

In addition, in a manner parallel to the farm loan program, we see that the level of VA business loan guarantees is still about a quarter of a century behind the times. The maximum loan limit of $10,000 is hardly adequate to get anyone started in business. My bill raises the loan limit to a level equivalent to that of the Small Business Administration. This limit, $219,000, will hopefully enable more young veterans to establish their own independent commercial operations.

Mr. President, the Senate is presently working on an improved veterans education bill. I support these efforts and have taken a leading role in getting veterans education legislation introduced. However, not all veterans are attending school and these men need assistance just as other veterans do. In any event, all veterans who are trying to get established in their own business enterprises need assistance.

In my opinion, this bill is greatly needed and is long overdue. I urge every Senator to support this measure.

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

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

S. 3779

A bill to amend chapter 37 of title 38, United States Code, to improve the basic provisions of the veteran farm and business loan programs.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection 1803(b) of title 38, United States Code, is amended by deleting the first sentence thereof.

SEC. 2. Subsection 1812(b)(4) of title 38, United States Code, is amended by striking out the period at the end of the sentence and inserting in lieu thereof the following: ", or $100,000, whichever is the lesser."

SEC. 3. Subsection 1813(b)(4) of title 38, United States Code, is amended by striking out the period at the end of the sentence and inserting in lieu thereof the following: ", or $219,000, whichever is the lesser."

SEC. 4. Section 1818 of title 38, United States Code, is amended as follows:

(a) Subsection (a) is amended by deleting "(except sections 1813 and 1815, and business loans under section 1814, of this title)" and inserting in lieu thereof "(except section 1815 and business loans under section 1814 of this title)"; and

(b) Subsection (c) is amended by deleting "sections 1813 and 1815, and business loans under section 1814 of this title" and inserting in lieu thereof "section 1815 and business loans under section 1814 of this title."

By Mr. JAVITS (for himself, Mr. KENNEDY, Mr. TAFT, Mr. WILLIAMS, Mr. HATHAWAY, Mr. CRANSTON, Mr. PELL, Mr. BEALL, Mr. HUGHES, Mr. STAFFORD, Mr. SCHWEIKER, Mr. RANDOLPH, Mr. DOMINICK, and Mr. EAGLETON):

S. 3782. A bill to amend the Public Health Service Act to extend for 1 year the authorization of appropriations for Federal capital contributions into the student loan funds of health professions education schools. Ordered to be placed on the calendar.

THE EMERGENCY HEALTH PROFESSIONS EDUCATIONAL ASSISTANCE ACT

Mr. JAVITS. Mr. President, I am going to present a bill which, for reasons of its being a very serious emergency, I am going to ask unanimous consent to go right on the calendar, although I will not call it up today, but explain it in great detail so Members will have until, say, next Tuesday to look at it carefully.

The bill is sponsored by 12 of the, I think it is, 16 or 17, whatever is our total number, of the members of the Committee on Labor and Public Welfare.

Mr. President, on behalf of myself and Senator KENNEDY and of Senators TAFT, WILLIAMS, HATHAWAY, CRANSTON, PELL, BEALL, HUGHES, STAFFORD, SCHWEIKER, RANDOLPH, DOMINICK, and EAGLETON, I am introducing today the "Emergency Health Professions Educational Assistance Act" (S. 3782), and a companion measure is being introduced in the House of Representatives by the distinguished chairman of the Public Health and Environment Subcommittee, Representative PAUL G. ROGERS of Florida.

Our bill is an emergency measure which would authorize the extension of the present Health Professions and Nursing Loan Programs for 1 year at the fiscal year 1974 authorization levels of $60,000,000 and $35,000,000 respectively. Without such legislation thousands of nursing and medical students just beginning their education will be denied the opportunity to receive financial assistance and many may be compelled to drop out. First year students are not eligible for such financial assistance without the provisions of this bill.

Mr. President, I intend in a moment to ask unanimous consent that this bill be placed on the calendar, but I do not do so now.

Under the terms of the continuing resolution House Joint Resolution 1062, "activities for 'Health Resources' as set forth in the 1975 budget" shall receive "such amounts as may be necessary for continuing projects or activities—not otherwise provided for in this joint resolution or other enacted Appropriation Acts for the fiscal year 1975—which were conducted in the fiscal year 1974 and are listed in this subsection at a rate for operations not in excess of the current rate or the rate provided for in the budget estimate, whichever is lower, and under the more restrictive authority . . ."

The loan program provisions of the Public Health Service Act with respect to these loans authorize funds to enable the Government to honor its commitment of loans to previous recipients, and the administration intends to fund only those students who received loans last year. The administration only requested phase-out money in the fiscal year 1975 budget for health loan programs but has requested no new student loan program funds, as indicated by the following appropriations chart:

[In millions of dollars]

	Fiscal year—		
	1973	1974	1975 (budget estimate)
Health professions loans	36	36M	30
Nursing loans	24	[1] 24	18

[1] Cut 5 percent to $22,800,000.

The enactment of this authorizing legislation will enable an appropriation to be provided by the Senate in the 1975 Labor/HEW appropriations bill. Also it may enable schools to spend even a reduced appropriation for all classes and so some funds might be available to the beginning classes. The schools might be able to use the funds more flexibly.

While the Senate and House Committees are currently working on the development of health manpower legislation which would revise the expired loan programs, it is now apparent that action cannot be completed in time to provide support to this year's entering class of nurses, physicians, dentists, osteopaths, pharmacists, veterinarians, optometrists, and podiatrists.

Over one-half of the entering classes in medical school—14,500 students—will require loans and over one-half of the loans to be made would have come from the health professions loan program; 96,000 nursing students enter school this year and approximately 20 percent—19,200—were expected to receive the special nursing student loans in addition to the other grants and loans for which they, as undergraduate students, qualify.

Without this emergency legislation the loan fund cannot be utilized except on behalf of those students who had previously received loans. In view of the late date other financial aid funds for entering students are already allocated on the expectation that health loan funds would have been available. This is truly a national problem affecting students in institutions throughout the country.

Mr. President, the bill, as I say, is sponsored by the overwhelming majority of the members of the Committee on Labor and Public Welfare, and a companion measure is being introduced in the House of Representatives for the very same reason, that it is an emergency.

What we are trying to do is see that those who go to nursing and medical schools, the first-year students, may be able to have their student loans at the opening of the fall session.

What has happened is that the authorization has expired as of June 30, 1974, which would accommodate loans to these first-year students. The administration does not desire to make loans to first-year students, and hence has simply allowed the law to lapse without seeking renewal, because it simply wants to continue loans to students already in the medical schools and the nursing schools. So that is the key issue.

To understand the impact of this cutoff of funds more completely, I ask unanimous consent that the full text of a report entitled "The Impact of the Health Professions Loan Programs on Selected Medical Students at Private Universities" from John C. Crowley, assistant executive secretary of the Association of American Universities be printed in the RECORD.

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

THE IMPACT OF THE HEALTH PROFESSIONS LOAN PROGRAMS ON FIRST YEAR MEDICAL STUDENTS AT SELECTED PRIVATE UNIVERSITIES

COLUMBIA UNIVERSITY

Medical School: The total student enrollment in 1973–74 was 580, of whom 147 were 1st year students. Minority students constitute 12.5% (72) of the total enrollment. Minority enrollment has continued to increase at a rate of 1.7% compounded annually. Sixty percent of the total student body receive some financial assistance, 90% of minority students receive assistance.

Total student body financial aid from all sources in 1973–74 was $1,740,000. Of this $850,000 was in the form of scholarships and grants and $890,000 was provided in the form of loans. A total of 515 loans were granted, of which 225 (43.7%) were health professions loans totaling almost $300,000.

In the words of medical school financial administrators the health professions loan program is "very critical, we could not survive" without it. The Columbia University medical school is "committed to the enrollment of the best qualified students; without these loans the medical school could not continue to live up to its commitment and obligation to provide high quality medical education to the best qualified students."

School of Dentistry: In the dental school 55% of the student body requires financial assistance. Private scholarship resources compared to the medical school are modest. Therefore 75% of the available aid is in the form of loans. Approximately ⅓ of the total loans granted are health professions loans.

Thus dental students are highly, dependent upon them.

Trend: The financial aid officer at the Medical School of Columbia University reports that the growth rate in total financial aid provided over a seven-year period (1967–74), as a result of the steady increase in the cost of education to the medical student, is 9% compounded annually. During this period the number of students requiring financial aid has increased at a rate of 5.1% compounded annually. The total student population, has increased 3.5% annually. Therefore the aggregate financial aid requirements between 1967–1974 increased at a rate of 19.5% compounded annually. In this setting the Health Profession Loans provide a vital financial assistance service.

HARVARD UNIVERSITY

The Health Professions loan fund at the Harvard Medical School constitute approximately ¼ of the total loans made to students. Approximately $325,000 is awarded annually in Health Professions loans.

Of a total 1st year class in 1973–74 of 165 students, 115 received financial aid. Of these, thirty-four students each received a health professions loan of $1,500. Three students received $1,000 each. Although the annual individual loan limit under the program is $3,500, the maximum health professions loan per student for first-year students was restricted to $1,500, or less, to avoid an inequitable distribution of these scarce loan funds among the total student body. Advance students received a maximum loan of $2,000, down from $2,500 the year before.

If health professions loans are further reduced the repayments received by the medical school would probably have to be distributed inequitably among the four classes in order to provide health professions loans to the most needy first-year students. In effect this would mean a thinning-out of the program, as approximately 45 needy upper class students would have their health professions loans restricted.

These students frequently come from disadvantaged and minority families. The Financial Aid Officers at the Harvard Medical School stressed that although other loan funds might be available, they would be available only at substantially higher interest rates and without the valuable deferment and service cancellation provisions of the health professions loans.

The health professions loans have been an incentive for minority and disadvantaged students to enter the health professions. The overriding concern of financial aid administrators at all the medical schools contacted, including the Harvard Medical School, was that the upward trend toward greater enrollments of minority and disadvantaged students would be seriously slowed, or even reversed, if the federal commitment to provide low cost loans to medical students is ended.

UNIVERSITY OF IOWA

Medical School: In the fall of 1974, the medical school of the University of Iowa will enroll an estimated 671 students, of whom 238 (35.5%) will be advanced students eligible for the health professions loan program. A first-year class of 181 students is projected, including 83 students eligible for these loans. The 238 continuing students would be eligible for a total of $272,559 in loans, and first-year students would need an estimated $95,450, for a total health profession loan need of $368,009.

The medical school expects to enroll 26 minority students, all of whom would participate in the health profession loan program. The Financial Aid Office of the University reports that no private resources are available to provide needy students with such long term loans. Medical students, therefore are highly dependent upon the health profession loan program.

Dental School: The anticipated total 1974 fall enrollment is 338 students. Of these 115 advanced students are eligible for a total of $283,354 in health professions loans. Of the first-year class, 42 students are eligible for a total of $102,900 in loans. Therefore 157 dental students at the University of Iowa are eligible this fall for a total of $386,254 in health professions loans.

In just these two schools at the University of Iowa needy students will be eligible for health professions loans in excess of $750,000. First-year students will the eligible for almost $200,000 in loans. The program, therefore, is of vital interest to the medical students of the University of Iowa.

NEW YORK UNIVERSITY

Medical School: In 1973–74, 191 students (31.2%) of a total enrollment of 612 received health professions loans totaling $259,920. Of these 191 students, 47 (24.6%) were first-year students.

School of Dentistry: In 1973–74 23.5% (169) of the total school enrollment of 720 students financed their medical education in part with health professions loans. Of the 169 students participating in the health professions loan program 61 (36.1%) were first-year students. The total amount borrowed by dental students was $196,045.

The health professions loan program is centrally important to the student assistance program for medical and dental students at New York University.

STANFORD UNIVERSITY

In academic year 1973–74 109 students (29%) of a total enrollment of 370 in the medical school borrowed a total of $132,613 in health profession loans. Of these 109 students 26 were first-year students. This loan fund is the largest loan fund of the Stanford Medical School and is, therefore, crucial to their aid program.

Until the authorization for health professions loans is passed, the medical school is not assigning any loans to its incoming class. Of the 86 incoming students this fall, however, it is estimated that 30 students would qualify for these loans. If first-year and advanced medical students can not obtain a health profession loan they would be forced to borrow very high cost loans, such as an AMA loan which has an interest rate calculated at the total of the current prime rate *plus* two percent—a very high rate in today's money market!

Low income students are the most frequent borrowers under the program, and, therefore, the group of students least able to cope with this financial burden would be hardest hit. The total 9-month budgeted cost to the student at the medical school is $6,540, including $3,570 for tuition. The health professions loan program is vital to the needy student in meeting this very substantial cost of professional education.

UNIVERSITY OF PENNSYLVANIA

School	Total enrollment, 1973–74	Total health professions loans		First-year loans	
		Number	Amount	Number	Amount
Medicine	603	233	$307,000	70	$103,000
Dentistry	580	237	247,000	67	64,850
Veterinary	372	134	209,000	40	75,000
Nursing	216	64	47,000	(1)	(1)

[1] Not available.

The Student Financial Aid Office of the University of Pennsylvania prepared the data shown above. The office concludes that without the health professions loan fund many students would be unable to meet the high costs of a medical education.

To illustrate, a first-year student in the School of Dentistry in academic year 1974–75 will require $8,750 to meet the total costs incurred during the 9-month academic year. This amount includes $3,710 tuition and fees and $2,250 for books and instruments. Needy students already are required to borrow the maximum available guaranteed student loan before additional aid is provided. If a student with full need borrows $2,500 under the G.S.L. program his remaining need will be between $5,550 and $6,250 depending upon the amount saved from summer earnings. Without a health professions loan existing resources could not fill that aid gap, and that student may be denied access to the School of Dentistry. The University does not have sufficient private resources to assume the financial burden of meeting the aid requirements of all needy students now served by the health professions loan program, which even at current levels is inadequate to meet the needs of students. A further reduction would place unprecedented burdens on both students and their schools.

Mr. JAVITS. Mr. President, I also ask unanimous consent to have printed in the RECORD a list of the members of that association.

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

ASSOCIATION OF AMERICAN UNIVERSITIES—MEMBERSHIP

Brown University, Providence, R.I. 02912.
California Institute of Technology, Pasadena, Calif. 91109.
University of California, Berkeley, Calif. 94720.
Case Western Reserve University, Cleveland, Ohio 44106.
Catholic University of America, Washington, D.C. 20017
University of Chicago, Chicago, Ill. 60637.
Clark University, Worcester, Mass. 01610.
University of Colorado, Boulder, Col. 80302
Columbia University, New York, N.Y. 10027.
Cornell University, Ithaca, N.Y. 14850.
Duke University, Durham, N.C. 27705.
Harvard University, Cambridge, Mass. 02138.
University of Illinois, Urbana, Ill. 61801.
Indiana University, Bloomington, Ind. 47405.
Iowa State University, Ames, Ia. 50010.
University of Iowa, Iowa City, Ia. 52240.
The Johns Hopkins University, Baltimore, Md. 21218.
University of Kansas, Lawrence, Kan. 66044.
University of Maryland, College Park, Md. 20742.
Massachusetts Institute of Technology, Cambridge, Mass. 02139.
McGill University, Montreal, Quebec, Canada.
Michigan State University, East Lansing, Mich. 48824.
University of Michigan, Ann Arbor, Mich. 48104.
University of Minnesota, Minneapolis, Minn. 55455.
University of Missouri, Columbia, Mo. 65202.
University of Nebraska, Lincoln, Nebr. 68508.
New York University, New York, N.Y. 10003.
University of North Carolina, Chapel Hill, N.C. 27514.
Northwestern University, Evanston, Ill. 60201.
Ohio State University, Columbus, Ohio 43210
University of Oregon, Eugene, Oreg. 97403.
Pennsylvania State University, University Park, Pa. 16802.
University of Pennsylvania, Philadelphia, Penn. 19104.
Princeton University, Princeton, N.J. 08540.
Purdue University, Lafayette, Ind. 47907.
University of Rochester, Rochester, N.Y. 14627.

University of Southern California, Los Angeles, Calif. 90007.
Stanford University, Stanford, Calif. 94305.
Syracuse University, Syracuse, N.Y. 13210.
University of Texas, Austin, Tex. 78712.
University of Toronto, Toronto, Ontario, Canada.
Tulane University, New Orleans, La. 70118.
Vanderbilt University, Nashville, Tenn. 37203.
University of Virginia, Charlottesville, Va. 22903.
University of Washington, Seattle, Wash. 98105.
Washington University, St. Louis, Mo. 63130.
University of Wisconsin, Madison, Wis. 53706.
Yale University, New Haven, Conn. 06520.

Mr. JAVITS. Mr. President, we have, for insertion in the RECORD, an analysis of the situation of a large number of private universities and at various medical schools, including Columbia, Harvard, the University of Iowa, New York University, Stanford in California, and the University of Pennsylvania, by way of illustration from those institutions as to what it means to their first-year classes.

A brief review of the students' situations on several campuses and in different programs of study across the Nation—exclusive of information according to the financial aid director for all 72 State University of New York institutions, that the decision to cut off health professions and nursing student loans will affect over 1,800 State university students in the health field—indicates:

At State University of New York/Upstate Medical Center, 43 freshmen students, of whom 16 come from families with incomes under $10,000, and which university required parental contributions for health professions loan eligibility will need $94,121.

At Rutgers University one-third of the entering class, 52 freshmen students need $70,650.

At the University of New Mexico—which has exhausted its own resources to aid new students—there are now pending applications for health professions and nursing loans from 60 new students in nursing, 35 in medicine, and 25 in pharmacy.

At Stanford University Medical School no loans are assigned to the incoming class of 86, yet 30 qualify for these loans.

Low-income students are the most frequent borrowers under the program, and, therefore, the group of students least able to cope with this financial burden would be hardest hit. The health professions loan program is vital to the needy student in meeting this very substantial cost of professional education.

At the new medical school at the State University of New York, Stony Brook, each student applying for aid must borrow the maximum allowable loan from the New York State administered national guaranteed student loan program. They must also apply for the health professions loan program. Finally, each student must complete a financial statement which is reviewed by the college scholarship service to determine the total amount of the student's financial need. Notwithstanding these stringent requirements over one-half of the entering class of 48 has been determined to need additional loan assistance through the health profession loan programs. The 10 colleges in City University of New York offering nursing programs expect to have 1,100 initial year nursing students eligible to participate in the loan program. Based on last year's average loans these students could expect to receive loans totaling $600,000.

It has been suggested that students in the health area participate more fully in the other general student assistance programs. Because of the short time remaining before school opens, many of the programs are simply not available to the students this year and even more importantly the available funds are insufficient to meet the needs of the nonhealth students. Appropriations for these programs were made 1 year in advance and have already been allocated to the institutions without anticipating this new group of needy students.

Taking the student aid programs individually, some freshmen nursing students will be eligible for basic opportunity grants—BOG grants—but this program, which holds promise for the future, has not been fully funded and therefore grants which can never exceed one-half of a student's financial need, will be reduced. In addition, grant aid is available only to the most needy students. The supplementary opportunity grant program—for undergraduates only—and the college work study program—for graduates and undergraduates—have been funded at about the same level for several years. During this time numerous new institutions and students have become eligible for funds and there is simply too little money to meet the need of all eligible students.

In addition, the allocations for these programs too have already been made with the expectation that health students would have other alternatives. The nonhealth student loan programs will provide almost no relief to these students.

In 44 States students are not allowed to borrow more than $1,500 per year from the federally guaranteed loan program. With average costs of $6,000 at private medical schools and $3,500 to $4,500 costs at public schools, the national guaranteed student loan—NGSL—is miniscule. Further, because of tight money and high interest rates, banks are reluctant to invest additional funds in guaranteed loans and according to the National Association of Student Financial Aid officers, loans are even more difficult for students to obtain for this fall. Many health professions institutions also do not allow their students to work the first year because of the very heavy schedule in the beginning year. Both the Comprehensive Health Manpower and the Nurse Training Acts of 1971 forbid national direct student loan—NDSL—to students eligible to participate in special health loan programs. Again funding for direct loans is inadequate for additional unexpected students.

In order to permit an orderly transition and in order to avert the disastrous effects of the President's budget, I believe it is necessary to extend these two legislative authorities for 1 year. That is exactly what the bill does. It makes no substantive changes in the law at all. It adds no new money but simply extends the life of the provisions from June 30, 1974, to June 30, 1975.

Mr. President, the case, we think—that is, the overwhelming majority of the members of our committee—is a very strong one, and it is only because it is an emergency, without in any way being a precedent, that the matter is in limbo at this particular moment, and hence the desire to avoid the committee stage, though it is our own committee, by putting the bill up on the calendar, where it can be called up at the earliest possible convenience because of its emergency nature.

I send the bill to the desk for myself, the Senator from Massachusetts (Mr. KENNEDY), and a number of cosponsors, all of whom are members of the Committee on Labor and Public Welfare, and ask unanimous consent that the bill be placed on the calendar.

The PRESIDING OFFICER. Without objection, the bill will be considered as having been read twice, and will be placed on the calendar.

Mr. JAVITS. Mr. President, I have discussed this matter with the majority leader and with the deputy majority leader, and again wish to emphasize that this is not a precedent, either for me or for anyone else. It is just an emergency, and the concentration of the sponsorship by members of our own committee, we believe, justifies this particular type of action.

Mr. MANSFIELD. Mr. President, if the Senator will yield, the Senator has well stated the position of the majority leader. It is because of the unusual emergency nature of the situation that this is being allowed at this time, but I want to join the Senator from New York in emphasizing that this is not to be considered a precedent for the future.

Mr. JAVITS. I thank my colleague.

Mr. TAFT. Mr. President, I am pleased to cosponsor the Emergency Health Professions Educational Assistance Act introduced by the Senator from New York (Mr. JAVITS).

This bill would extend for 1 year the authorization of appropriations of a program in the Public Health Service Act providing for Federal capital contributions into the student loan funds of health professions educational schools. This authorization ended June 30 of this year. In order that extension legislation could be enacted for legislation whose authorization ended on June 30, House Joint Resolution 1062, a continuing appropriations bill, was passed and made law on June 30. Whereas most of the programs in the Public Health Service Act were funded through September 30 by this resolution, the student loan program was not. Since it was not a part of the administration's 1975 budget proposal, it was not included in the continuing resolution.

Although the administration's deletion from their budget proposal appears to have been just an attempt to change from one program of assisting health professions students to another, it has grievous consequences for needy students entering medical school this fall. They must attempt to put together their

loan package immediately, and they have no place to turn.

The various health bills extending and revising the Public Health Service Act are still before the Labor and Public Welfare Committee. These bills are quite controversial, so it is likely that it might be a while before they become law. The need for loans is too urgent for any of these bills to be passed in time.

There remains the option of the National Health Service Corps which is still funded. Unfortunately, however, it is funded at only $3 million, whereas the administration has requested $21 million. With insufficient funding, the corps would not be able to offer nearly enough positions for all the health professions students needing financial assistance.

The only other option for Federal aid is the Federal guaranteed student loan program, a loan program open to all graduate and undergraduate students. This program seems to the one, to which the admiinstration wishes to shift health professions students. Unfortunately the maximum amount that can be borrowed in 1 year under that program is $2,500. Considering the high cost of health education, this does not go a long way. The administration has realized this and proposed that the maximum amount be raised to up to $8,000 a year. This, however, is still just a proposal and can do little for students entering health professions schools this fall.

To make matters worse, officials at Ohio State University advise me that many banks do not enter into the guaranteed student loan program, and those that do usually offer a maximum yearly rate consderably less than $2,500.

Also, many banks do not allow students to participate unless their parents are already customers of the bank, and then require cosignatures.

Even with Federal capital contributions into the student loan funds of health professions schools, Ohio State University needed approximately $600,000 in student loans last year for students in their six health professions schools. If this legislation continuing these Federal contributions is not passed, officials at Ohio State predict they will need over $2 million in student loan money. They have no idea where they will get these funds. This will either put Ohio State into financial crisis, or they will have to accept only those students able to pay full tuition if such students exist. Nationwide, this situation could harmfully affect all of the health professions schools in the country this year, and it could have a harmful effect on the entire health field in the years to come. With the obvious extreme urgency of this legislation, I urge immediate passage of the Emergency Health Professions Educational Assistance Act.

By Mr. FULBRIGHT:

S. 3783. A bill to implement certain provisions of the International Convention on Fishing and Conservation of the Living Resources of the High Seas, and for other purposes. Referred to the Committee on Foreign Relations, by unanimous consent.

Mr. FULBRIGHT. Mr. President, I am today introducing a bill to implement certain provisions of the International Convention on Fishing and Conservation of the High Seas, and for other purposes, and I request unanimous consent that this bill be referred to the Committee on Foreign Relations.

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

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 2022

At the request of Mr. TUNNEY, the Senator from Rhode Island (Mr. PELL) was added as a cosponsor of S. 2022, the Flexible Hours Employment Act.

S. 2801

At the request of Mr. PROXMIRE, the Senator from Alabama (Mr. ALLEN) was added as a cosponsor of S. 2801, a bill to amend the Federal Food, Drug, and Cosmetic Act to include a definition of food supplements, and for other purposes.

S. 3460

At the request of Mr. DOMENICI, the Senator from Mississippi (Mr. STENNIS), the Senator from Ohio, (Mr. TAFT), and the Senator from Texas (Mr. TOWER) were added as cosponsors of S. 3460 to amend the Internal Revenue Code of 1954 with respect to certain charitable contributions.

S. 3480

At the request of Mr. TUNNEY, the Senator from Washington (Mr. JACKSON) was added as a cosponsor of S. 3480, the National Summer Youth Sports program.

S. 3513

At the request of Mr. TOWER, the Senator from Texas (Mr. BENTSEN) was added as a cosponsor of S. 3515, a bill to authorize the Secretary of the Interior to construct, operate, and maintain the Neuces River project, Texas, and for other purposes.

S. 3625

At the request of Mr. DOMENICI, the Senator from Texas (Mr. TOWER) was added as a cosponsor to S. 3625, a bill to provide for the recycling of used oil, and for other purposes.

S. 3649

At the request of Mr. PELL, the Senator from South Dakota (Mr. ABOUREZK), the Senator from Tennessee (Mr. BAKER), the Senator from Texas (Mr. BENTSEN), the Senator from Tennessee (Mr. BROCK), the Senator from Massachusetts (Mr. BROOKE), the Senator from California (Mr. CRANSTON), the Senator from Maine (Mr. HATHAWAY), the Senator from Minnesota (Mr. HUMPHREY), the Senator from New York (Mr. JAVITS), the Senator from Maryland (Mr. MATHIAS), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Wyoming (Mr. MCGEE), the Senator from Montana (Mr. METCALF), the Senator from Minnesota (Mr. MONDALE), the Senator from New Mexico (Mr. MONTOYA), and the Senator from Wisconsin (Mr. NELSON) were added as cosponsors of S. 3649, the Social Security Recipients Fairness Act of 1974.

S. 3717

At the request of Mr. HUMPHREY, the Senator from New York (Mr. JAVITS) was added as a cosponsor of S. 3717 to extend the Emergency Petroleum Allocation Act of 1973 to June 30, 1976.

S. 3758

At the request of Mr. HATFIELD, the Senator from Maryland (Mr. MATHIAS) was added as a cosponsor of S. 3758, a bill to amend section 121 of the Internal Revenue Code of 1954 to increase the exclusion from gross income of gain from the sale of a residence by an individual who is 65 years or older.

S. 3769

At the request of Mr. PELL, the Senator from Illinois (Mr. STEVENSON) was added as a cosponsor of S. 3769, a bill to amend title II of the Social Security Act to increase to $3,000 the annual amount which an individual may earn without suffering deductions from monthly insurance benefits on account of excess earnings.

SENATE RESOLUTION 360—SUBMISSION OF A RESOLUTION AUTHORIZING SUPPLEMENTAL EXPENDITURES BY THE SPECIAL COMMITTEE ON AGING FOR INQUIRIES AND INVESTIGATIONS

(Referred to the Committee on Rules and Administration.)

Mr. CHURCH submitted the following resolution:

S. RES. 360

Resolved, That section 4 of Senate Resolution 51, Ninety-third Congress, agreed to February 22, 1973, is amended by striking out "$411,000" and inserting in lieu thereof "$415,500".

CONSUMER PROTECTION AGENCY ACT—AMENDMENTS

AMENDMENT NO. 1576

(Ordered to be printed and to lie on the table.)

Mr. BUCKLEY submitted an amendment, intended to be proposed by him, to the bill (S. 707) to establish an independent Consumer Protection Agency, and to authorize a program of grants, in order to protect and serve the interests of consumers, and for other purposes.

Mr. BUCKLEY. Mr. President, yesterday the Senate adopted almost unanimously an amendment to S. 707 introduced by the distinguished junior Senator from New Mexico (Mr. DOMENICI) that would offer small businesses limited protection against some of the onerous overhead burdens that the Consumer Protection Agency could impose on them. I am encouraged by this vote to believe that this body shares my growing concern over the heavy burdens that are being imposed increasingly on small businesses and small people by the regulatory bodies and agencies we continue to proliferate.

I therefore hope that the amendment to S. 707 that I now send to the desk may find wide support. The purpose of my amendment is to protect small businesses from two other areas where they can be subjected to undue burdens and even to harassment by the all-powerful Consumer Protection Agency that is to be created under this bill.

The first concerns agency adjudica-

tions of violations of laws. These proceedings are administrative trials prosecuted by Federal agency lawyers before their own commissions in which a businessman or business is charged with violating a law or regulation under law.

Within the spectrum of all Federal agency proceedings and activities, there are relatively few such agency adjudications. But, in these, small businessmen are particularly vulnerable because of the expense of defending themselves—often in Washington, D.C.—and because of the bad publicity these proceedings generate.

Most small businesses do not have large batteries of lawyers and public relations men to keep the Federal Government at bay. Indeed, many consumerists have cited these factors in their allegations that Federal agencies often will go after the little guy who has inadequate resources to defend himself, rather than take on a giant of industry who will give the prosecuting agency no quarter.

For example, this was one of the main criticisms of the Federal Trade Commission voiced by Ralph Nader when he and his colleagues investigated that agency several years ago.

It is difficult enough for a small businessman to defend himself against a giant and prestigious agency such as the Federal Trade Commission. To allow another full agency—the ACA—to intervene as a dual prosecutor against the small businessman would be too much, I am afraid, for many smaller companies.

The second area of small business vulnerability in need of safeguarding is related to the first. It involves judicial review of such adjudications of violations.

Under S. 707, where a businessman has successfully defended himself in an agency adjudication, and is found innocent of all charges by the agency with the responsibility to make such findings, the ACA can appeal that finding of innocence to the courts in an attempt to overturn it. Moreover, the ACA can even reopen cases that have been resolved.

This, of course, places a disproportionately heavy burden on a small businessman who not only would find himself the subject of an unexpected court battle, but would have to face the prospect of having the whole case reopened if the court, when confronted by the specter of one Federal agency challenging another, remands the case back for further consideration.

My amendment provides small businesses with the necessary protection by exempting agency proceedings in which they are involved from intervention by the ACA.

The exemption I propose will not materially inhibit the legitimate work proposed for the ACA, but it will protect small enterprises against the prospect of heavy added costs anytime they become involved in agency proceedings; costs that can either force them to close down or to capitulate to bureaucratic harassment.

Mr. President, it is time we thought seriously of the consequences of too much of our legislation on the cost of doing business. The interests of the consumer will not be served if we limit competition and innovation by creating a business overhead that only large corporations can afford.

Mr. President, I ask unanimous consent that the 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. 1576

On page 59, line 12, after the word "concerning" insert the following:

"(A) an adjudication of an alleged violation of law against any person which is a small business concern as defined under Section 3 of the Small Business Act (15 U.S.C. 632), or (B)"

DEPARTMENT OF AGRICULTURE-ENVIRONMENTAL AND CONSUMER PROTECTION APPROPRIATIONS, 1975

AMENDMENT NO. 1557

(Ordered to be printed and to lie on the table.)

Mr. ABOUREZK submitted an amendment, intended to be proposed by him, to the bill (H.R. 15472) making appropriations for agriculture-environmental and consumer protection programs for the fiscal year ending June 30, 1975, and for other purposes.

JUVENILE JUSTICE AND DELINQUENCY PREVENTION ACT OF 1974—AMENDMENT

(AMENDMENT NO. 1578)

(Ordered to be printed and to lie on the table.)

Mr. BAYH (for himself, Mr. HRUSKA, Mr. MATHIAS, Mr. COOK, Mr. MCCLELLAN, Mr. FONG, Mr. HART, Mr. HUGH SCOTT, Mr. KENNEDY, Mr. THURMOND, Mr. BURDICK, Mr. GURNEY, Mr. ABOUREZK, Mr. BIBLE, Mr. BROCK, Mr. CASE, Mr. CHURCH, Mr. CLARK, Mr. CRANSTON, Mr. GRAVEL, Mr. HUMPHREY, Mr. MCGEE, Mr. MONTOYA, Mr. MOSS, Mr. PASTORE, Mr. RANDOLPH, Mr. RIBICOFF, Mr. MONDALE, Mr. CANNON, and Mr. EASTLAND) submitted an amendment, intended to be proposed by them, jointly, to the bill (S. 821) to improve the quality of juvenile justice in the United States and to provide a comprehensive, coordinated approach to the problems of juvenile delinquency, and for other purposes.

Mr. BAYH. Mr. President, I am gratified to join today with my distinguished colleague, Senator ROMAN HRUSKA and numerous cosponsors in introducing an amendment in the nature of a substitute to S. 821, the Juvenile Justice and Delinquency Prevention Act of 1974. The Juvenile Justice and Delinquency Prevention Act is the product of a 3-year, bipartisan effort, which I have been privileged to lead, to improve the quality of juvenile justice in the United States and to provide overhaul of the Federal approach to the problems of juvenile delinquency.

I originally introduced this measure as S. 3148 during the 92d Congress when it received strong support from youth-serving organizations and juvenile delinquency experts around the country. I reintroduced S. 821 on February 8, 1973. The Senate Subcommittee on Juvenile Delinquency of which I am chairman, held 10 days of hearings and heard 80 witnesses on S. 821 and S. 3158. These hearings demonstrated the need for a comprehensive coordinated juvenile delinquency effort combined with assistance to States, localities, and private agencies to prevent delinquency and to provide community-based alternatives to juvenile detention and correctional facilities.

I was gratified when on March 5, 1974, the Senate Subcommittee To Investigate Juvenile Delinquency reported S. 821 unanimously to the full judiciary. S. 821 originally proposed the creation of a new office to administer the program in the Executive Office of the President and the bill as reported from the subcommittee placed the program in the Department of Health, Education, and Welfare. The Judiciary Committee amended and reported the bill on May 8, 1974, placing the program in the Law Enforcement Assistance Administration (LEAA) of the Department of Justice and making certain other changes.

I have been working closely with the distinguished ranking minority member of the Judiciary Committee (Mr. HRUSKA) to develop a strong bill which provides for administration of this program within LEAA and which guarantees that the program can achieve the crucial goals of S. 821 as originally introduced. I am pleased to announce that Senator HRUSKA and I have been able to work out this substitute amendment that preserves the essence of the original Juvenile Justice and Delinquency Act while placing the program in LEAA. It achieves such vital objectives as coordination of Federal delinquency programs; authorization of additional resources to States, localities and public and private agencies for community-based prevention, diversion, and treatment programs; creation of centralized research, training, technical assistance, and evaluation activities; and adoption of basic procedural protections for juveniles under Federal jurisdiction. We are gratified that so many of the original cosponsors have joined this effort along with additional cosponsors which assure a broadly based support for the substitute amendment.

The substitute amendment creates a Juvenile Justice and Delinquency Prevention Office in LEAA headed by an Assistant Administrator who will administer a newly created juvenile delinquency prevention and rehabilitation effort within LEAA, and who will have policy control over all juvenile delinquency programs funded by LEAA. S. 821 thus assures a comprehensive approach within LEAA and this office will also have the responsibility of carrying out the goal of the original S. 821 to coordinate all Federal juvenile delinquency programs. Moreover, this office will provide the desperately needed leadership to deal with the multifaceted problem of delinquency.

The substitute amendment also provides that LEAA shall maintain the same level of financial assistance for existing juvenile delinquency programs as LEAA maintained in 1972—namely, $140 million. The substitute amendment further

authorizes substantial new funds over the next 2 years to carry out the additional programs which it establishes. In this way we have guaranteed the kind of substantial resources necessary to combat the delinquency crisis in this country. As is well-known, juveniles account for more than half of the crime in this country and no agency of the Federal Government has ever devoted the kind of resources needed to solve the problem. The funding authorized in S. 821 is a substantial step in the right direction of matching resources with the gravity of the problem.

LEAA is a block grant program so that major decisions on expenditure of funds are made at the State level where the program is administered by the State planning agency. Thus, S. 821 provides for administration of the juvenile program at the State level by the State planning agency. However, to guarantee proper consideration of the needs of juveniles, this substitute amends the LEAA Act to provide that the State planning agency must be representative of agencies related to the prevention and control of juvenile delinquency and shall include representatives of citizen, professional, and community organizations including organizations related directly to the prevention of delinquency.

These same provisions also apply to the LEAA regional planning units in the State so that the substitute amendment assures participation in the allocation of funds at the State and local level of persons experienced in delinquency prevention. The participation of these agencies and organizations who have experience in dealing with the day-to-day problems of juvenile delinquency is further assured by their participation in an advisory group to support the State planning agency in the administration of this program. The Governor will appoint the group from persons with a special knowledge concerning the prevention and treatment of juvenile delinquency or the administration of juvenile justice. Membership will include units of local government, juvenile justice agencies, agencies concerned with delinquency prevention and treatment, private organizations concerned with delinquency prevention and community-based treatment, and organizations which represent employees affected by this act. A majority of the members of the group shall not be governmental employees and at least one-third shall be under the age of 26.

S. 821 had always recognized that solutions to the juvenile delinquency problem must come at the State and local level. Thus, the substitute builds on existing provisions of the Crime Control Act of 1973 to assure that States will develop a comprehensive juvenile justice plan in order to receive funds under the new juvenile delinquency programs created by S. 821 and under existing LEAA juvenile delinquency funding. S. 821 builds on the existing LEAA juvenile delinquency program to provide for comprehensive planning to develop and to maintain services to prevent juvenile delinquency, to divert juveniles from the juvenile justice system and to provide community-based alternatives to juvenile detention and correctional facilities.

The substitute amendment carries forward the major purpose of S. 821 namely, to provide funding for delinquency prevention. Rising crime statistics demonstrate that the whole focus of LEAA's effort in the juvenile justice field must be toward prevention. The substitute amendment incorporates the vital provision of the original S. 821 to require that 75 percent of the newly authorized State funds must be expended on advanced techniques in developing and maintaining services to prevent juvenile delinquency, to divert juveniles from the juvenile justice system and to provide community-based alternatives to juvenile detention and correctional facilities. These programs are the heart of S. 821 and include community-based services for prevention and treatment of juvenile delinquency through development of foster care and shelter care homes; youth service bureaus and other counseling, educational and supportive services for delinquents, youth in danger of becoming delinquent and their families; youth initiated services, and expanded use of probation and probation subsidy programs.

These programs open the possibility of communities creating meaningful alternatives for youth who were previously incarcerated. Witnesses before the subcommittee have repeatedly testified that many delinquents who were institutionalized could be better and more humanely handled in community-based programs at less cost to the public while preserving the public safety. Such programs will mean a significant reduction in crime.

S. 821, as originally introduced and as contained in the substitute amendment, has placed a heavy emphasis on the role of the private voluntary agency in developing prevention and treatment alternatives. S. 821 provides the necessary assistance and direction to create an effective partnership with the private sector. The substitute amendment authorizes direct special emphasis grants to public and private agencies to develop and implement new and innovative and effective approaches to juvenile delinquency programs. The substitute amendment mandates that 20 percent of these funds must go to private nonprofit agencies who have had experience in dealing with youth. This provision, combined with the provision for representation of the private agencies on State planning boards, assures a meaningful role to the many dedicated private agencies and individuals who have long worked on the delinquency problem.

The substitute amendment also establishes a National Institute of Juvenile Justice within the Office of Juvenile Justice and Delinquency Prevention at LEAA. This Institute will serve as a clearinghouse on information concerning juvenile justice and will conduct training, research, and evaluation. The Institute will provide vitally neded leadership in developing effective research, training, and information services relating to juvenile delinquency. It is an essential part of the new comprehensive coordinated Federal approach to delinquency and will give added focus and strength to the new Juvenile Justice and Delinquency Prevention Office.

Finally, the substitute amendment contains in title II a series of specific amendments to existing Federal law, to guarantee certain basic protections to juveniles under Federal jurisdiction. Title II as revised in the substitute amendment, amends the Federal Juvenile Delinquency Act to guarantee certain basic procedural and constitutional protections to juveniles under Federal jurisdiction. Although less than 700 juveniles are annually processed through Federal court, it is important that the Federal Government set an example of how juveniles should be treated. In its emphasis on both due process and on community-based treatment for juveniles this title furthers the goals of S. 821.

There are numerous other gratifying aspects of the substitute amendment which confirm my belief that it is the best possible bill to do the job that needs to be done in the delinquency field. After 3 years of study, I know it is vitally important to pass S. 821 as soon as possible. The substitute amendment goes a long way toward assuring that juvenile delinquency will be a priority concern of LEAA. At last, one department of the Federal Government will have authority to create the long-needed comprehensive, coordinated Federal program to provide meaningful alternatives to youth—preferably before they are involved in the juvenile justice system. I will vigilantly review LEAA's activities to assure that the strong accountable Federal responsibility to the delinquency crisis required by S. 821 is forthcoming. With the authority contained in the substitute amendment, I have every expectation this will be the case.

The Juvenile Justice and Delinquency Prevention Act represents a commitment to our Nation's future. I urge my colleagues in the Congress to support the substitute amendment and hope that they will act expeditiously to provide the Federal leadership and resources so desperately needed to deal with juvenile delinquency. By enacting S. 821 we will contribute significantly to the safety and well-being of all our citizens, particularly our youth.

Mr. President, I ask unanimous consent that the substitute amendment as presented be printed in the RECORD, following the remarks of the distinguished Senator from Nebraska (Mr. HRUSKA).

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

(See exhibit 1.)

Mr. HRUSKA. Mr. President, I would like to preface my comments on S. 821, as amended, with a few words about my valued friend, the distinguished Senator from Indiana. Senator BAYH for a long time has been the leading advocate on juvenile delinquency prevention and control. The dedication and spirit of cooperation which he has exhibited should serve as an inspiration in the effort against one of our leading national problems—juvenile crime.

I have agreed to cosponsor this proposed substitute amendment to S. 821—The Juvenile Justice and Delinquency Prevention Act of 1974. Juvenile crime is reaching crisis proportions. Comprehensive legislation could help to stem the tide of rising crime and provide viable

alternatives for youthful offenders to insure meaningful processing and rehabilitation.

It is well recognized that one of the keys to controlling overall crime in this country is to reduce and to prevent juvenile crime. Juvenile crime has skyrocketed in the past decade. The seriousness of the problem is reflected in the ominous statistics.

The arrests of juveniles under 18 for violent crimes such as murder, rape, and robbery have increased 216 percent from 1960 to the present. During the same period juvenile arrests for property crime, such as burglary and auto theft have increased 91 percent. Juveniles under 18 are responsible for 51 percent of the total arrests for property crimes, 23 percent for violent crimes and 45 percent for all serious crimes.

Juvenile crime takes an enormous toll each year. In 1970, the material cost was in excess of $4 billion. Even more costly was the immeasurable loss in human terms to both the victims of juvenile crime and to the juveniles themselves. The intangible effects of public fear and private despair are substantial.

Despite all current efforts, the recidivism rate for juvenile offenders is estimated to range from 60 to 75 percent and higher. It is generally agreed that policemen, judges, and probation officers who deal with juveniles are extremely dedicated. Too often, however, their efforts are negated by outmoded procedures, a lack of funds and inadequate facilities for caring for youth offenders. Even more discouraging is the use of the criminal justice system to deal with troublesome or problematic youth perceived to be too difficult to be dealt with by normal community facilities. Nearly 40 percent of juveniles incarcerated have committed no criminal act. The figure is staggering in recognition of the detrimental effects that incarceration has been shown to produce with first offenders and juveniles.

There is a strong need to provide alternative programs utilizing resources other than the police, courts, and corrections to rehabilitate youth and prevent the development of a criminal career. The problem of juvenile delinquency cannot be attacked in a singular manner. It requires a multifaceted approach involving all aspects of the youth's life.

LEAA is the obvious and natural agency to administer this program. LEAA already possesses the administrative structure necessary for the effective and efficient operation of the juvenile delinquency program.

Currently LEAA has in operation 55 State planning agencies which plan, coordinate, and implement various programs of LEAA. Under existing LEAA legislation, States are required to include in their State plans comprehensive programs for the improvement of juvenile justice. The State agencies have already developed forms, regulations, grant fund mechanisms, guidelines, and other procedures necessary for the efficient operation of the juvenile delinquency program. With a minimum of modification, the existing structure with qualified and competent personnel can go into operation immediately to implement this legislation.

Perhaps the most compelling reason that LEAA should administer the program is the dedicated commitment to juvenile delinquency prevention and control that it has made over the past 5 years.

Although LEAA was never given primary responsibility in this area, it has assumed the dominant position. Recent amendments to the Omnibus Crime Control and Safe Streets Act have prompted LEAA to take a number of new initiatives. Juvenile justice and delinquency prevention is one of LEAA's four national priority programs. A juvenile justice section has been established in the National Institute of Law Enforcement and Criminal Justice, the research arm of LEAA. It is important to note that S. 821, as amended, provides for the establishment of a National Institute of Juvenile Justice within LEAA. Locating this body here will expand the level and nature of delinquency research already conducted by LEAA and will increase the focus on the prevention of delinquency.

LEAA has already spent tremendous sums for juvenile delinquency programs in its first 5 years. During the fiscal year 1972, LEAA awarded nearly $140 million on a wide-ranging juvenile delinquency program. Of this total, $21 million or 15 percent was for juvenile delinquency prevention. In fiscal year 1973, the amount of funds for juvenile delinquency prevention programs has increased to $34 million.

LEAA has funded approximately 2,000 juvenile delinquency projects. Although there is no official count available for the number of juveniles affected, it could reach several million. A further indication of LEAA's strong commitment in this area is the assumption of control it has assumed over the Interdepartmental Council. The Council created in HEW legislation sought to coordinate all Federal juvenile delinquency programs. LEAA now supplies the leadership and a core of permanent staff for the Council. It will likely retain this position under the proposed amendment.

It is unquestionable that LEAA has the capability, capacity and the desire to do the job. Failure to give LEAA a comprehensive mandate as proposed by this legislation would seriously weaken the Federal juvenile delinquency prevention and control effort.

The amendment to S. 821 makes several notable improvements in the committee amendments while at the same time retaining all of the major provisions of what I perceive to be a progressive and imaginative approach to the solution of the problem of juvenile delinquency in the United States.

The amended bill provides for strong Federal leadership in coordinating the resources necessary to develop and implement effective programs at the State and local level to prevent and treat juvenile delinquency. I would like to briefly summarize the major provisions of this bill.

Title I of the bill incorporates the findings and purposes of the committee bill into the findings and purposes of the Omnibus Crime Control and Safe Streets Act.

Title II amends the Federal Juvenile Delinquency Act to clarify the language and add guarantees to protect the rights of juveniles while in contact with the Federal criminal justice system, consistent with existing judicial interpretations of our Constitution.

Title III provides a new part F for the Omnibus Crime Control and Safe Streets Act entitled "Juvenile Justice and Delinquency Prevention." It establishes in the Department of Justice, Law Enforcement Assistance Administration, an office of Juvenile Justice and Delinquency Prevention, headed by an assistant administrator, appointed by the President with the advice and consent of the Senate. It establishes an Interdepartmental Council on Juvenile Delinquency charged with coordination of all Federal juvenile delinquency programs and a National Advisory Committee for Juvenile Justice and Delinquency Prevention to make recommendations regarding planning, policy, priorities, operations and management of all Federal juvenile delinquency programs.

Title IV establishes a Federal assistance program for State and local government for juvenile justice, delinquency and related programs. Substantial grants are authorized through existing mechanisms of the Law Enforcement Assistance Administration to encourage the development of comprehensive programs designed to impact on all facets of juvenile delinquency. This is a key feature of the bill, utilizing the LEAA block grant mechanism as the primary vehicle to infuse funds into the States in an orderly, coordinated and effective manner.

Title V establishes a National Institute of Juvenile Justice within the Juvenile Justice and Delinquency Prevention Office. The Institute will serve as a center for national efforts in juvenile delinquency evaluation, data collection and dissemination, research and training, and adoption of national standards for the administration of juvenile justice.

Title VI authorizes, for purposes of part F, appropriations of $225 million over the next 2 years. This increased funding should provide an effective impact on juvenile delinquency.

Title VII establishes a National Institute of Corrections within the Federal Bureau of Prisons. This represents a much needed effort to provide a coordinating mechanism for a fragmented corrections system in need of direction and intercommunication.

Mr. President, this amendment treats a broad range of complicated and comprehensive problems. It attempts to logically assemble the various component elements in a program of juvenile delinquency and prevention.

I frankly cannot subscribe to each and every facet of the bill. However, it is the result of a healthy compromise within the ranks of the membership of the Committee on the Judiciary. In my opinion this give and take has been fruitful and apparently this view is shared by my colleagues on the committee where there has developed a virtual unanimity on the amendment introduced today.

This bill meets the problem of juvenile delinquency in an effective manner. I believe it to be the best possible beginning to meet the need for a national program which will produce results over all of this Nation. I respectively urge all Members to support this amendment vigorously.

EXHIBIT 1

SUBSTITUTE AMENDMENT

Strike out all after the enacting clause and insert in lieu thereof the following: That this Act may be cited as the "Juvenile Justice and Delinquency Prevention Act of 1974".

TITLE I—FINDINGS AND DECLARATION OF PURPOSE

SEC. 101. (a) Section titled "Declaration and Purpose" in Title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended [82 Stat. 197; 84 Stat. 1881; 87 Stat. 197], is amended by inserting immediately after the second paragraph thereof the following new paragraph:

"Congress finds further that the high incidence of delinquency in the United States today results in enormous annual cost and immeasurable loss in human life, personal security, and wasted human resources and (2) that juvenile delinquency constitutes a growing threat to the national welfare requiring immediate and comprehensive action by the Federal government to reduce and prevent delinquency.

(b) Such section is further amended by adding at the end thereof the following new paragraph:

"It is therefore the further declared policy of Congress to provide the necessary resources, leadership, and coordination to (1) develop and implement effective methods of preventing and reducing juvenile delinquency; (2) to develop and conduct effective programs to prevent delinquency, to divert juveniles from the traditional juvenile justice system and to provide critically-needed alternatives to institutionalizaton; (3) to improve the quality of juvenile justice in the United States; and (4) to increase the capacity of State and local governments and public and private agencies to conduct effective juvenile justice and delinquency prevention and rehabilitation programs and to provide research, evaluation, and training services in the field of juvenile justice and delinquency prevention."

DEFINITIONS

SEC. 103. Section 601 of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended [82 Stat. 197; 84 Stat. 1881; 87 Stat. 197], is further amended by adding the following new subsections:

"(p) the term 'community-based' facility, program, or service, as used in Part F, means a small, open group or home or other suitable place located near the adult offender's or juvenile's home or family and programs of community supervision and service which maintain community and consumer participation in the planning, operation, and evaluation of their programs which may include, but are not limited to, medical, educational, vocational, social, and psychological guidance, training, counseling, drug treatment, and other rehabilitative services;

"(q) the term 'Federal juvenile delinquency program' means any juvenille delinquency program which is conducted, directly, or indirectly, or is assisted by any Federal department or agency, including any program funded under this Act;

"(r) the term 'juvenile delinquency program' means any program or activity related to juvenile delinquency prevention, control, diversion, treatment, rehabilitation, planning, education, training, and research, including drug abuse programs; the improvement of the juvenile justice system; and any program or activity for neglected, abandoned, or dependent youth and other youth who are in danger of becoming delinquent."

TITLE II—AMENDMENTS TO THE FEDERAL JUVENILE DELINQUENCY ACT

DEFINITIONS

SEC. 201. Section 5031 of title 18, United States Code, is amended to read as follows:

"§ 5031. Definitions

"For the purposes of this chapter, a 'juvenile' is a person who has not attained his eighteenth birthday, or for the purpose of proceedings and disposition under this chapter for an alleged act of juvenile delinquency, a person who has not attained his twenty-first birthday. and 'juvenile delinquency' is the violation of a law of the United States committed by a person prior to his eighteenth birthday which would have been a crime if committed by an adult."

DELINQUENCY PROCEEDINGS IN DISTRICT COURTS

SEC. 202. Section 5032 of title 18, United States Code, is amended to read as follows:

"§ 5032. Delinquency proceedings in district courts; transfer for criminal prosecution

"A juvenile alleged to have committed an act of juvenile delinquency shall not be proceeded against in any court of the United States unless the Attorney General, after investigation, certifies to an appropriate district court of the United States that the juvenile court or other appropriate court of a State (1) does not have jurisdiction or refuses to assume jurisdiction over said juvenile with respect to such alleged act of juvenile delinquency, or (2) does not have available programs and services adequate for needs of juveniles.

"If the Attorney General does not so certify, such juvenile shall be surrendered to the appropriate legal authorities of such State.

"If an alleged juvenile delinquent is not surrendered to the authorities of a State or the District of Columbia pursuant to this section, any proceedings against him shall be in an appropriate district court of the United States. For such purposes, the court may be convened at any time and place within the district, in chambers or otherwise. The Attorney General shall proceed by information, and no criminal prosecution shall be instituted for the alleged act of juvenile delinquency except as provided below.

"A juvenile who is alleged to have committed an act of juvenile delinquency and who is not surrendered to State authorities shall be proceeded against under this chapter unless he has requested in writing upon advice of counsel to be proceeded against as an adult, except that, with respect to a juvenile sixteen years and older alleged to have committed an act after his sixteenth birthday which if committed by an adult would be a felony punishbale by a maximum penalty of ten years imprisonment or more, life imprisonment, or death, criminal prosecution on the basis of the alleged act may be begun by motion to transfer of the Attorney General in the appropriate district court of the United States, if such court finds, after hearing, such transfer would be in the interest of justice.

"Evidence of the following factors shall be considered, and findings with regard to each factor shall be made in the record, in assessing whether a transfer would be in the interest of justice: the age and social background of the juvenile; the nature of the alleged offense; the extent and nature of the juvenile's prior delinquency record; the juvenile's present intellectual development and psychological maturity; the nature of past treatment efforts and the juvenile response to such efforts; the availability of programs designed to treat the juvenile's behavioral problems.

"Reasonable notice of the transfer hearing shall be given to the juvenile, his parents, guardian, or custodian and to his counsel. The juvenile shall be assisted by counsel during the transfer hearing, and at every other critical stage of the proceedings.

"Once a juvenile has entered a plea of guilty or the proceeding has reached the stage that evidence has begun to be taken with respect to a crime or an alleged act of juvenile delinquency subsequent criminal prosecution or juvenile proceedings based upon such alleged act of delinquency shall be barred.

"Statements made by a juvenile prior to or during a transfer hearing under this section shall not be admissible at subsequent criminal prosecutions."

CUSTODY

SEC. 203. Section 5033 of title 18 United States Code is amended to read as follows:

"§ 5033. Custody prior to appearance before magistrate

"Whenever a juvenile is taken into custody for an alleged act of juvenile delinquency, the arresting officer shall immediately advise such juvenile of his legal rights, in language comprehensive to a juvenile, and shall immediately notify the Attorney General and the juvenile's parents, guardian, or custodian of such custody. The arresting officer shall also notify the parents, guardian, or custodian of the rights of the juvenile and of the nature of the alleged offense.

"The juvenile shall be taken before a magistrate forthwith. In no event shall the juvenile be detained for longer than a reasonable period of time before being brought before a magistrate."

DUTIES OF MAGISTRATE

SEC. 204. Section 5034 of title 18, United States Code, is amended to read as follows:

"§ 5034. Duties of magistrate

"The magistrate shall insure that the juvenile is represented by counsel before proceeding with critical stages of the proceedings. Counsel shall be assigned to represent a juvenile when the juvenile and his parents, guardian, or custodian are financially unable to obtain adequate representation. In cases here the juvenile and his parents, guardian, or custodian are financially able to obtain adequate representation but have not retained counsel, the magistrate may assign counsel and order the payment of reasonable attorney's fees or may direct the juvenile, his parents, guardian, or custodian to retain private counsel within a specified period of time.

"The magistrate may appoint a guardian ad litem if a parent or guardian of the juvenile is not present, or if the magistrate has reason to believe that the parents or guardian will not cooperate with the juvenile in preparing for trial, or that the interests of the parents or guardian and those of the juvenile are adverse.

"If the juvenile has not been discharged before his initial appearance before the magistrate, the magistrate shall release the juvenile to his parents, guardian, custodian, or other responsible party (including, but not limited to, the director of a shelter-care facility) upon their promise to bring such juvenile before the appropriate court when requested by such court unless the magistrate determines, after hearing, at which the juvenile is represented by counsel, that the detention of such juvenile is required to secure his timely appearance before the appropriate court or to insure his safety or that of others."

DETENTION

SEC. 205. Section 5035 of this title is amended to read as follows:

"§ 5035. Detention prior to disposition

"A juvenile alleged to be delinquent may be detained only in a juvenile facility or such other suitable place as the Attorney General may designate. Whenever possible, detention shall be in a foster home or community based facility located in or near his home community. The Attorney General shall not cause any juvenile alleged to be delinquent to be detained or confined in any

institution in which the juvenile has regular contact with adult persons convicted of a crime or awaiting trial on criminal charges are confined. Insofar as possible, alleged delinquents shall be kept separate from adjudicated delinquents. Every juvenile in custody shall be provided with adequate food, heat, light, sanitary facilities, bedding, clothing, recreation, education, and medical care, including necessary psychiatric, psychological, or other care and treatment."

SPEEDY TRIAL

SEC. 206. Section 5036 of this title is amended to read as follows:

"§ 5036. Speedy trial

"If an alleged delinquent who is in detention pending trial is not brought to trial within thirty days from the date upon which such detention was begun, the information shall be dismissed on motion of the alleged delinquent or at the direction of the court, unless the Attorney General shows that additional delay was caused by the juvenile or his counsel, or consented to by the juvenile and his counsel or would be in the interest of justice in the particular case. Delays attributable solely to court calendar congestion may not be considered in the interest of justice. Except in extraordinary circumstances, an information dismissed under this section may not be reinstituted.

DISPOSITION

SEC. 207. Section 5037 is amended to read as follows:

"§ 5037. Dispositional hearing

"(a) If a juvenile is adjudicated delinquent, a separate dispositional hearing shall be held no later than twenty court days after trial unless the court has ordered further study in accordance with subsection (c). Copies of the presentence report shall be provided to the attorneys for both the juvenile and the Government a reasonable time in advance of the hearing.

"(b) The court may suspend the adjudication of delinquency or the disposition of the delinquent on such conditions as it deems proper, place him on probation, or commit him to the custody of the Attorney General. Probation, commitment, or commitment in accordance with subsection (c) shall not extend beyond the juvenile's twenty-first birthday or the maximum term which could have been imposed on an adult convicted of the same offense, whichever is sooner, or a period not to exceed the lesser of two years or the maximum term which could have been imposed on an adult convicted of the same offense.

"(c) If the court desires more detailed information concerning an alleged or adjudicated delinquent, it may commit him, after notice and hearing at which the juvenile is represented by counsel, to the custody of the Attorney General for observation and study by an appropriate agency. Such observation and study shall be conducted on an outpatient basis, unless the court determines that inpatient observation and study are necessary to obtain the desired information. In the case of an alleged juvenile delinquent, inpatient study may be ordered only with the consent of the juvenile and his attorney. The agency shall make a complete study of the alleged or adjudicated delinquent to ascertain his personal traits, his capabilities, his background, any previous delinquency or criminal experience, any mental or physical defect, and any other relevant factors. The Attorney General shall submit to the court and the attorneys for the juvenile and the Government the results of the study within thirty days after the commitment of the juvenile, unless the court grants additional time."

JUVENILE RECORDS

SEC. 208. Section 5038 is added, to read as follows:

"§ 5038. Use of juvenile records

"(a) Throughout the juvenile delinquency proceeding, the court shall safeguard the records from disclosure. Upon the completion of any juvenile delinquency proceeding whether or not there is an adjudication the district court shall order the entire file and record of such proceeding sealed. After such sealing the court shall not release these records except to the extent necessary to meet the following circumstances:

"(1) inquiries received from another court of law;

"(2) inquiries from an agency preparing a presentence report for another court;

"(3) inquiries from law enforcement agencies where the request for information is related to the investigation of a crime or a position within that agency;

"(4) inquiries, in writing, from the director of a treatment agency or the director of a facility to which the juvenile has been committed by the court; and

"(5) inquiries from an agency considering the person for a position immediately and directly affecting the national security.

Unless otherwise authorized by this section, information about the sealed record may not be released when the request for information is related to an application for employment, license, bonding, or any civil right or privilege. Responses to such inquiries shall not be different from responses made about persons who have never been involved in a delinquency proceeding.

"(b) District courts exercising jurisdiction over any juvenile shall inform the juvenile, and his parent or guardian, in writing in clear and nontechnical language, of rights relating to the sealing of his juvenile record.

"(c) During the course of any juvenile delinquency proceeding, all information and records relating to the proceeding, which are obtained or prepared in the discharge of an official duty by an employee of the court or an employee of any other governmental agency, shall not be disclosed directly or indirectly to anyone other than the judge, counsel for the juvenile and the government, or others entitled under this section to receive sealed records.

"(d) Unless a juvenile who is taken into custody is prosecuted as an adult—

"(1) neither the fingerprints nor a photograph shall be taken, without the written consent of the judge; and

"(2) neither the name nor picture of any juvenile shall be made public by any medium of public information in connection with a juvenile delinquency proceeding."

COMMITMENT

SEC. 209. Section 5039 is added, to read as follows:

§ 5039. Commitment

"No juvenile committed to the custody of the Attorney General may be placed or retained in an adult jail or correction institution in which he has regular contact with adults incarcerated because they have been convicted of a crime or are awaiting trial on criminal charges.

"Every juvenile who has been committed shall be provided with adequate food, heat, light, sanitary facilities, bedding, clothing, recreation, counseling, education, training, and medical care, including necessary psychiatric, psychological, or other care and treatment.

"Whenever possible, the Attorney General shall commit a juvenile to a foster home or community-based facility located in or near his home community."

SUPPORT

SEC. 210. Section 5040 is added, to read as follows:

"§ 5040. Support

"The Attorney General may contract with any public or private agency or individual and such community-based facilities as halfway houses and foster homes, for the observation and study and the custody and care of juveniles in his custody. For these purposes, the Attorney General may promulgate such regulations as are necessary and may use the appropriation for 'support of United States' prisoners' or such other appropriations as he may designate."

PAROLE

SEC. 211. Section 5041 is added, to read as follows:

"§ 5041. Parole

"The Board of Parole shall release from custody, on such conditions as it deems necessary, each juvenile delinquent who has been committed, as soon as the Board is satisfied that he is likely to remain at liberty without violating the law and when such release would be in the interest of justice."

REVOCATION

SEC. 212. Section 5042 is added to read as follows:

"§ 5042. Revocation of parole or probation

"Any juvenile parolee or probationer shall be accorded notice and a hearing with counsel before his parole or probation can be revoked."

SEC. 213. The table of sections of chapter 403 of this title is amended to read as follows:

"Sec.
"5031. Definitions.
"5032. Delinquency proceedings in district courts; transfer for criminal prosecution.
"5033. Custody prior to appearance before magistrate.
"5034. Duties of magistrate.
"5035. Detention prior to disposition.
"5036. Speedy trial.
"5037. Dispositional hearing.
"5038. Use of juvenile records.
"5039. Commitment.
"5040. Support.
"5041. Parole.
"5042. Revocation of parole or probation.

TITLE III— JUVENILE JUSTICE AND DELINQUENCY PREVENTION OFFICE

SEC. 301. Section 203(a) of Ttitle I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended [82 Stat. 197; 84 Stat. 1881; 87 Stat. 197], is further amended by deleting the second full sentence and inserting in lieu thereof the following:

"The State Planning Agency and any regional planning units within tne State shall within their respective jurisdictions be representative of the law enforcement and criminal justice agencies including agencies directly related to the prevention and control of juvenile delinquency, units of general local governments, and public agencies maintaining programs to reduce and control crime, and shall include representatives of citizen, professional, and community organizations including organizations directly related to delinquency prevention.

SEC. 302. (a) Parts F, G, H, and I of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended [82 Stat. 197; 84 State. 1881; 87 Stat. 197], and all references thereto, are redesignated as Parts G, H, I, and J, respectively.

(b) Title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended [82 Stat. 197; 84 Stat. 1881; 87 Stat. 197], is further amended by adding after part E the following new part F:

"PART F—JUVENILE JUSTICE AND DELINQUENCY PREVENTION

"ESTABLISHMENT OF OFFICE

"SEC. 471. (a) There is hereby created within the Department of Justice, Law Enforcement Assistance Administration the Office of Juvenile Justice and Delinquency Prevention (referred to in this Act as the 'Office').

"(b) The programs authorized in Part F (hereinafter referred to as 'this part') and all other programs concerned with juvenile delinquency and administered by the Law Enforcement Assistance Administration shall

be administered or subject to the policy direction of the Office established under this section.

"(c) There shall be at the head of the Office an Assistant Administrator who shall be nominated by the President by and with the advice and consent of the Senate.

"(d) The Assistant Administrator shall exercise all necessary powers, subject to the direction of the Administrator of the Law Enforcement Assistance Administration.

"(e) There shall be in the Office a Deputy Assistant Administrator who shall be appointed by the Administrator of the Law Enforcement Assistance Administration. The Deputy Assistant Administrator shall perform such functions as the Assistant Administrator from time to time assigns or delegates, and shall act as Assistant Administrator during the absence or disability of the Assistant Administrator or in the event of a vacancy in the office of the Assistant Administrator.

"(f) There shall be established in the Office a Deputy Assistant Administrator who shall be appointed by the Administrator whose function shall be to supervise and direct the National Institute for Juvenile Justice established under section 501 of this Act.

"(g) Section 5108(c)(10) of Title 5, United States Code, is amended by deleting the word 'twenty-two' and inserting in lieu thereof the word 'twenty-five'.

"PERSONNEL, SPECIAL PERSONNEL, EXPERTS, AND CONSULTANTS

"SEC. 472. (a) The Administrator is authorized to select, employ, and fix the compensation of such officers and employees, including attorneys, as are necessary to perform the functions vested in him and to prescribe their functions.

"(b) The Administrator is authorized to select, appoint, and employ not to exceed three officers and to fix their compensation at rates not to exceed the rate now or hereafter prescribed for GS–18 of the General Schedule by section 5332 of title 5 of the United States Code.

"(c) Upon the request of the Administrator, the head of any Federal agency is authorized to detail, on a reimbursable basis, any of its personnel to the Assistant Administrator to assist him in carrying out his functions under this Act.

"(d) The Administrator may obtain services as authorized by section 3109 of title 5 of the United States Code, at rates not to exceed the rate now or hereafter prescribed for GS–18 of the General Schedule by section 5332 of title 5 of the United States Code.

"VOLUNTARY SERVICE

"SEC. 473. The Administrator is authorized to accept and employ, in carrying out the provisions of this Act, voluntary and uncompensated services notwithstanding the provisions of section 3679(b) of the Revised Statutes (41 U.S.C. 665(b)).

"CONCENTRATION OF FEDERAL EFFORTS

"SEC. 474. (a) The Administrator shall implement overall policy and develop objectives and priorities for all Federal juvenile delinquency programs and activities relating to prevention, diversion, training, treatment, rehabilitation, evaluation, research, and improvement of the juvenile justice system in the United States. In carrying out his functions, the Administrator shall consult with the Interdepartmental Council and the National Advisory Committee for Juvenile Justice and Delinquency Prevention.

"(b) In carrying out the purposes of this Act, the Administrator is authorized to—

"(1) advise the President through the Attorney General as to all matters relating to federally assisted juvenile delinquency programs and Federal policies regarding juvenile delinquency;

"(2) assist operating agencies which have direct responsibilities for the prevention and treatment of juvenile delinquency in the development and promulgation of regulations, guidelines, requirements, criteria, standards, procedures, and budget requests in accordance with the policies, priorities, and objectives he establishes;

"(3) conduct and support evaluations and studies of the performance and results achieved by Federal juvenile delinquency programs and activities and of the prospective performance and results that might be achieved by alternative programs and activities supplementary to or in lieu of those currently being administered;

"(4) implement Federal juvenile delinquency programs and activities among Federal departments and agencies and between Federal juvenile delinquency programs and activities and other Federal programs and activities which he determines may have an important bearing on the success of the entire Federal juvenile delinquency effort;

"(5) develop annually with the assistance of the Advisory Committee and submit to the President and the Congress, after the first year the legislation is enacted, prior to September 30, an analysis and evaluation of Federal juvenile delinquency programs conducted and assisted by Federal departments and agencies, the expenditures made, the results achieved, the plans developed, and problems in the operations and coordination of such programs. This report shall include recommendations for modifications in organization, management, personnel, standards, budget requests, and implementation plans necessary to increase the effectiveness of these programs;

"(6) develop annually with the assistance of the Advisory Committee and submit to the President and the Congress, after the first year the legislation is enacted, prior to March 1, a comprehensive plan for Federal juvenile delinquency programs, with particular emphasis on the prevention of juvenile delinquency and the development of programs and services which will encourage increased diversion of juveniles from the traditional juvenile justice system; and

"(7) provide technical assistance to Federal, State, and local governments, courts, public and private agencies, institutions, and individuals, in the planning, establishment, funding, operation, or evaluation of juvenile delinquency programs.

"(c) The Administrator may request departments and agencies engaged in any activity involving any Federal juvenile delinquency program to provide him with such information and reports, and to conduct such studies and surveys, as he may deem to be necessary to carry out the purposes of this Act.

"(d) The Administrator may delegate any of his functions under this title, except the making of regulations, to any officer or employee of the Administration.

"(e) The Administrator is authorized to utilize the services and facilities of any agency of the Federal Government and of any other public agency or institution in accordance with appropriate agreements, and to pay for such services either in advance or by way of reimbursement as may be agreed upon.

"(f) The Administrator is authorized to transfer funds appropriated under this Act to any agency of the Federal Government to develop or demonstrate new methods in juvenile delinquency prevention and rehabilitation and to supplement existing delinquency prevention and rehabilitation programs which the Director finds to be exceptionally effective or for which he finds there exists exceptional need.

"(g) The Administrator is authorized to make grants to, or enter into contracts with, any public or private agency, institution, or individual to carry out the purposes of this Act.

"(h) All functions of the Administrator under this Act shall be coordinated as appropriate with the functions of the Secretary of the Department of Health, Education, and Welfare under the Juvenile Delinquency Prevention Act (42 U.S.C. 3801 et seq.).

"JOINT FUNDING

"SEC. 475. Notwithstanding any other provision of law, where funds are made available by more than one Federal agency to be used by any agency, organization, institution, or individual to carry out a Federal juvenile delinquency program or activity, any one of the Federal agencies providing funds may be requested by the Administrator to act for all in administering the funds advanced. In such cases, a single non-Federal share requirement may be established according to the proportion of funds advanced by each Federal agency, and the Administrator may order any such agency to waive any technical grant or contract requirement (as defined in such regulations) which is inconsistent with the similar requirement of the administering agency or which the administering agency does not impose.

"INTERDEPARTMENTAL COUNCIL

"SEC. 476. (a) There is hereby established an Interdepartmental Council on Juvenile Delinquency (hereinafter referred to as the 'Council') composed of the Attorney General, the Secretary of Health, Education, and Welfare, the Secretary of Labor, the Director of the Special Action Office for Drug Abuse Prevention, the Secretary of Housing and Urban Development, or their respective designees, and representatives of such other agencies as the President shall designate.

"(b) The Attorney General or his designee shall serve as Chairman of the Council.

"(c) The function of the Council shall be to coordinate all Federal juvenile delinquency programs.

"(d) The Council shall meet a minimum of six times per year and the activities of the Council shall be included in the annual report required by section 474(b)(5) of this title.

"(e) The Chairman shall appoint an Executive Secretary of the Council and such personnel as are necessary to carry out the functions of the Council.

"ADVISORY COMMITTEE

"SEC. 477. (a) There is hereby established a National Advisory Committee for Juvenile Justice and Delinquency Prevention (hereinafter referred to as the 'Advisory Committee') which shall consist of twenty-one members.

"(b) The members of the Interdepartmental Council or their respective designee shall be ex officio members of the Committee.

"(c) The regular members of the Advisory Committee shall be appointed by the Attorney General from persons who by virtue of their training or experience have special knowledge concerning the prevention and treatment of juvenile delinquency or the administration of juvenile justice, such as juvenile or family court judges; probation, correctional, or law enforcement personnel; and representatives of private voluntary organizations and community-based programs. The President shall designate the Chairman. A majority of the members of the Advisory Committee, including the Chairman, shall not be full-time employees of Federal, State, or local governments. At least seven members shall not have attained twenty-six years of age on the date of their appointment.

"(d) Members appointed by the President to the Committee shall serve for terms of four years and shall be eligible for reappointment except that for the first composition of the Advisory Committee, one-third of these members shall be appointed to one-year terms, one-third to two-year terms, and one-third to three-year terms; thereafter

each term shall be four years. Any members appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed, shall be appointed for the remainder of such term.

"DUTIES OF THE ADVISORY COMMITTEE

"SEC. 478. (a) The Advisory Committee shall meet at the call of the Chairman, but not less than four times a year.

"(b) The Advisory Committee shall make recommendations to the Administrator at least annually with respect to planning, policy, priorities, operations, and management of all Federal juvenile delinquency programs.

"(c) The Chairman may designate a subcommittee of the members of the Advisory Committee to advise the Administrator on particular functions or aspects of the work of the Administration.

"(d) The Chairman shall designate a subcommittee of five members of the Committee to serve as members of an Advisory Committee for the National Institute for Juvenile Justice to perform the functions set forth in section 407 of this title.

"(e) The Chairman shall designate a subcommittee of five members of the Committee to serve as an Advisory Committee to the Administrator on Standards for the Administration of Juvenile Justice to perform the functions set forth in section 409 of this title.

"COMPENSATION AND EXPENSES

"SEC. 479. (a) Members of the Advisory Committee who are employed by the Federal Government full time shall serve without compensation but shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in carrying out the duties of the Advisory Committee.

"(b) Members of the Advisory Committee not employed full time by the Federal Government shall receive compensation at a rate not to exceed the rate now or hereafter prescribed for GS–18 of the General Schedule by section 5332 of title 5 of the United States Code, including traveltime for each day they are engaged in the performance of their duties as members of the Advisory Committee. Members shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred by them in carrying out the duties of the Advisory Committee."

TITLE IV—FEDERAL ASSISTANCE FOR STATE AND LOCAL PROGRAMS

SEC. 401. Title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended [82 Stat. 197; 84 Stat. 1881; 87 Stat. 197], is further amended by adding the following sections to new part F thereof:

"FORMULA GRANTS

"SEC. 480. The Administrator is authorized to make grants to States and local governments to assist them in planning, establishing, operating, coordinating, and evaluating projects directly or through contracts with public and private agencies for the development of more effective education, training, research, prevention, diversion, treatment, and rehabilitation programs in the area of juvenile delinquency and programs to improve the juvenile justice system.

"ALLOCATION

"SEC. 481. (a) In accordance with regulations promulgated under this part, funds shall be allocated annually among the States on the basis of relative population of people under age eighteen. No such allotment to any State shall be less than $200,000, except that for the Virgin Islands, Guam, and American Samoa, no allotment shall be less than $50,000.

"(b) Except for funds appropriated for fiscal year 1974, if any amount so allotted remains unobligated at the end of the fiscal year, such funds shall be reallocated in a manner equitable and consistent with the purposes of this part. Funds appropriated for fiscal year 1974 may be obligated in accordance with subsection (a) until June 30, 1976, after which time they may be reallocated. Any amount so reallocated shall be in addition to the amounts already allotted and available to the State, the Virgin Islands, American Samoa, and Guam for the same period.

"(c) In accordance with regulations promulgated under this part, a portion of any allotment to any State under this part shall be available to develop a State plan and to pay that portion of the expenditures which are necessary for efficient administration. Not more than 15 per centum of the total annual allotment of such State shall be available for such purposes. The State shall make available needed funds for planning and administration to local governments within the State on an equitable basis.

"STATE PLANS

"SEC. 482. (a) In order to receive formula grants under this part, a State shall submit a plan for carrying out its purposes in accordance with the requirements set forth in Sec. 303 (a) of Title I. In accordance with regulations established under this title, such plan must—

"(1) designate the State planning agency established by the State under section 203 of this title as the sole agency for supervising the preparation and administration of the plan;

"(2) contain satisfactory evidence that the State agency designated in accordance with paragraph (1) (hereafter referred to in this part as the 'State planning agency') has or will have authority, by legislation if necessary, to implement such plan in conformity with this part;

"(3) provide for an advisory group appointed by the chief executive of the State to advise the State planning agency and its supervisory board (A) which shall consist of not less than twenty-one and not more than thirty-three persons who have training, experience, or special knowledge concerning the prevention and treatment of juvenile delinquency or the administration of juvenile justice, (B) which shall include representation of units of local government, law enforcement and juvenile justice agencies such as law enforcement, correction or probation personnel, and juvenile or family court judges, and public agencies concerned with delinquency prevention or treatment such as welfare, social services, mental health, education or youth services departments; (C) which shall include representatives of private organizations: concerned with delinquency prevention or treatment; concerned with neglected or dependent children; concerned with the quality of juvenile justice, education, or social services for children; which utilize volunteers to work with delinquents or potential delinquents; community-based delinquency prevention or treatment programs; and organizations which represent employees affected by this Act, (D) a majority of whose members (including the Chairman) shall not be fulltime employees of the Federal, State, or local government, and (E) at least one-third of whose members shall be under the age of twenty-six at the time of appointment.

"(4) provide for the active consultation with and participation of local governments in the development of a State plan which adequately takes into account the needs and requests of local governments:

"(5) provide that at least 50 per centum of the funds received by the State under section 481 shall be expended through programs of local government insofar as they are consistent with the State plan, except that this provision may be waived at the discretion of the Administrator for any State if the services for delinquent or potentially delinquent youth are organized primarily on a statewide basis;

"(6) provide that the chief executive officer of the local government shall assign responsibility for the preparation and administration of the local government's part of a State plan, or for the supervision of the preparation and administration of the local government's part of the State plan, to that agency within the local government's structure (hereinafter in this part referred to as the 'local agency') which can most effectively carry out the purposes of this part and shall provide for supervision of the programs funded under this part by that local agency;

"(7) provide for an equitable distribution of the assistance received under section 481 within the State;

"(8) set forth study of the State needs for an effective, comprehensive, coordinated approach to juvenile delinquency prevention and treatment and the improvement of the juvenile justice system. This plan shall include itemized estimated costs for the development and implementation of such programs;

"(9) provide for the active consultation with and participation of private agencies in the development and execution of the State plan; and provide for coordination and maximum utilization of existing juvenile delinquency programs and other related programs, such as education, health, and welfare within the State;

"(10) provide that not less than 75 per centum of the funds available to such State under section 481, whether expended directly by the State or by the local government or through contracts with public or private agencies, shall be used for advanced techniques in developing, maintaining, and expanding programs and services designed to prevent juvenile delinquency, to divert juveniles from the juvenile justice system, and to provide community-based alternatives to juvenile detention and correctional facilities. That advanced techniques include—

"(A) community-based programs and services for the prevention and treatment of juvenile delinquency through the development of foster-care and shelter-care homes, group homes, halfway houses, homemaker and home health services and any other designated community-based diagnostic, treatment, or rehabilitative service;

"(B) community-based programs and services to work with parents and other family members to maintain and strengthen the family unit, so that the juvenile may be retained in his home;

"(C) youth service bureaus and other community-based programs to divert youth from the juvenile court or to support, counsel, or provide work and recreational opportunities for delinquents and youth in danger of becoming delinquent;

"(D) comprehensive programs of drug abuse education and prevention and programs for the treatment and rehabilitation of drug addicted youth, and 'drug dependent' youth (as defined in section 2(g) of the Public Health Service Act (42 U.S.C. 201 (g));

"(E) educational programs or supportive services designed to keep delinquents and other youth in elementary and secondary schools or in alternative learning situations;

"(F) expanded use of probation and recruitment and training of probation officers, other professional and paraprofessional personnel and volunteers to work effectively with youth;

"(G) youth initiated programs and outreach programs designed to assist youth who otherwise would not be reached by assistance programs;

"(H) provides for a statewide program through the use of probation subsidies, other subsidies, other financial incentive or disincentives to units of local government, or other effective means, that may include but are not limited to programs designed to:

"(A) reduce the number of commitments of juveniles to any form of juvenile facility as a percentage of the State juvenile population;

"(B) increase the use of non-secure community-based facilities as a percentage of total commitments to juvenile facilities; and

"(C) discourage the use of secure incarceration and detention.

"(11) provides for the development of an adequate research, training, and evaluation capacity within the State;

"(12) provide within two years after submission of the plan that juveniles who are charged with or who have committed offenses that would not be criminal if committed by an adult, shall not be placed in juvenile detention or correctional facilities, but must be placed in shelter facilities;

"(13) provide that juveniles alleged to be or found to be delinquent shall not be detained or confined in any institution in which they have regular contact with adult persons incarcerated because they have been convicted of a crime or are awaiting trial on criminal charges;

"(14) provide for an adequate system of monitoring jails, detention facilities, and correctional facilities to insure that the requirements of section 482 (13) and (14) are met, and for annual reporting of the results of such monitoring to the Administrator;

"(15) provide assurances that assistance will be available on an equitable basis to deal with all disadvantaged youth including, but not limited to, females, minority youth, and mentally retarded or emotionally handicapped youth;

"(16) provide for procedures to be established for protecting the rights of recipients of services and for assuring appropriate privacy with regard to records relating to such services provided to any individual under the State plan;

"(17) provide that fair and equitable arrangements are made to protect the interests of employees affected by assistance under this part;

"(18) provide for such fiscal control and fund accounting procedures necessary to assure prudent use, proper disbursement, and accurate accounting of funds received under this title;

"(19) provide reasonable assurance that Federal funds made available under this part for any period will be so used as to supplement and increase, to the extent feasible and practical, the level of State, local, and other non-Federal funds that would in the absence of such Federal funds be made available for the programs described in this part, and will in no event supplant such State, local, and other non-Federal funds;

"(20) provide that the State planning agency will from time to time, but not less often than annually, review its plan and submit to the Administrator an analysis and evaluation of the effectiveness of the programs and activities carried out under the plan, and any modifications in the plan, including the survey of State and local needs, which it considers necessary; and

"(21) contain such other terms and conditions as the Administrator may reasonably prescribe to assure the effectiveness of the programs assisted under this title.

"(b) The Board appointed pursuant to Sec. 482(a)(3) shall approve the State plan and any modification thereof prior to submission to the Administrator.

"(c) The Administrator shall approve any State plan and any modification thereof that meets the requirements of this section.

"(d) In the event that any State fails to submit a plan, or submits a plan or any modification thereof, which the Administrator, after reasonable notice and opportunity for hearing in accordance with sections 509, 510 and 511, determines does not meet the requirements of this section, the Administrator shall make that State's allotment under the provisions of 481 (a) available to public and private for Special Emphasis Prevention and Treatment Programs as defined in Section 483.

"(e) In the event the plan does not meet the requirements of this section due to oversight or neglect, rather than explicit and conscious decision, the Administrator shall endeavor to make that State's allotment under the provisions of 481(a) available to public and private agencies in that State for Special Emphasis Prevention and Treatment Programs as defined in section 483.

"SPECIAL EMPHASIS PREVENTION AND TREATMENT PROGRAMS

"SEC. 483. (a) The Administrator is authorized to make grants to and enter into contracts with public and private agencies, organizations, institutions, or individuals to—

"(1) develop and implement new approaches, techniques, and methods with respect to juvenile delinquency programs;

"(2) develop and maintain community-based alternatives to traditional forms of institutionalization;

"(3) develop and implement effective means of diverting juveniles from the traditional juvenile justice and correctional system;

"(4) improve the capability of public and private agencies and organizations to provide services for delinquents and youths in danger of becoming delinquent; and

"(5) facilitate the adoption of the recommendations of the Advisory Committee on Standards for Juvenile Justice as set forth pursuant to section 409.

"(b) Not less than 25 per centum or more than 50 per centum of the funds appropriated for each fiscal year pursuant to this part shall be available only for special emphasis prevention and treatment grants and contracts made pursuant to this section.

"(c) At least 20 percent of the funds available for grants and contracts made pursuant to this section shall be available for grants and contract to private non-profit agencies, organizations or institutions who have had experience in dealing with youth.

"CONSIDERATIONS FOR APPROVAL OF APPLICATIONS

"SEC. 484. (a) Any agency, institution, or individual desiring to receive a grant, or enter into any contract under section 483, shall submit an application at such time, in such manner, and containing or accompanied by such information as the Administrator may prescribe.

"(b) In accordance with guidelines established by the Administrator, each such applicant shall—

"(1) provide that the program for which assistance is sought will be administered by or under the supervision of the applicant;

"(2) set forth a program for carrying out one or more of the purposes set forth in section 482;

"(3) provide for the proper and efficient administration of such program;

"(4) provide for regular evaluation of the program;

"(5) indicate that the applicant has requested the review of the application from the State planning agency and local agency designated in section 482, when appropriate, and indicate the response of such agency to the request for review and comment on the application;

"(6) provide that regular reports on the program shall be sent to the Administrator and to the State planning agency and local agency, when appropriate; and

"(7) provide for such fiscal control and fund accounting procedures as may be necessary to assure prudent use, proper disbursement, and accurate accounting of funds received under this title.

"(c) In determining whether or not to approve applications for grants under section 483, the Administrator shall consider—

"(1) the relative cost and effectiveness of the proposed program in effectuating the purposes of this part;

"(2) the extent to which the proposed program will incorporate new or innovative techniques;

"(3) the extent to which the proposed program meets the objectives and priorities of the State plan, when a State plan has been approved by the Administrator under section 482(c) and when the location and scope of the program makes such consideration appropriate;

"(4) the increase in capacity of the public and private agency, institution, or individual to provide services to delinquents or youths in danger of becoming delinquents;

"(5) the extent to which the proposed project serves communities which have high rates of youth unemployment, school dropout, and delinquency; and

"(6) the extent to which the proposed program facilitates the implementation of the recommendations of the Advisory Committee on Standards for Juvenile Justice as set forth pursuant to section 409.

"GENERAL PROVISIONS

Withholding

"SEC. 485. Whenever the Administrator, after giving reasonable notice and opportunity for hearing, to a recipient of financial assistance under this title, finds—

"(1) that the program or activity for which such grant was made has been so changed that it no longer complies with the provisions of this title; or

"(2) that in the operation of the program or activity there is failure to comply substantially with any such provision; the Administrator shall initiate such proceedings as are appropriate under sections 509, 510, and 511 of this title.

"Use of Funds

"SEC. 486. Funds paid to any State public or private agency, institution, or individual (whether directly or through a State or local agency) may be used for:

"(1) securing, developing, or operating the program designed to carry out the purposes of this part;

"(2) not more than 50 per centum of the cost of the construction of innovative community-based facilities for less than twenty persons (as defined in sections 601(f) and 601(p) of this title) which, in the judgment of the Administrator, are necessary for carrying out the purposes of this part.

"Payments

"SEC. 487. (a) In accordance with criteria established by the Administrator, it is the policy of Congress that programs funded under this title shall continue to receive financial assistance providing that the yearly evaluation of such programs is satisfactory.

"(b) At the discretion of the Administrator, when there is no other way to fund an essential juvenile delinquency program not funded under this part, the State may utilize 25 per centum of the formula grant funds available to it under this part to meet the non-Federal matching share requirement for any other Federal juvenile delinquency program grant.

"(c) Whenever the Administrator determines that it will contribute to the purposes of this part, he may require the recipient of any grant or contract to contribute money, facilities, or services.

"(d) Payments under this part, pursuant to a grant or contract, may be made (after necessary adjustment, in the case of grants, on account of previously made overpayments or underpayments) in advance or by way of reimbursements, in such installments and on

such conditions as the Administrator may determine."

TITLE V—NATIONAL INSTITUTE FOR JUVENILE JUSTICE

SEC. 501. Title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended [82 Stat. 197; 84 Stat. 1881; 87 Stat. 197], is further amended by adding the following sections to new part F thereof:

"SEC. 490(a). There is hereby established within the Juvenile Justice and Delinquency Prevention Office a National Institute for Juvenile Justice.

"(b) The National Institute for Juvenile Justice shall be under the supervision and direction of the Assistant Administrator, and shall be headed by a Deputy Assistant Administrator of the Office appointed under Section 471(e).

"(c) The activities of the National Institute of Juvenile Justice shall be coordinated with the activities of the National Institute of Law Enforcement and Criminal Justice in accordance with the requirements of Section 471(b).

"INFORMATION FUNCTION

SEC. 491. The National Institute for Juvenile Justice is authorized to—

"(1) serve as an information bank by collecting systematically and synthesizing the data and knowledge obtained from studies and research by public and private agencies, institutions, or individuals concerning all aspects of juvenile delinquency, including the prevention and treatment of juvenile delinquency;

"(2) serve as a clearinghouse and information center for the preparation, publication, and dissemination of all information regarding juvenile delinquency, including State and local juvenile delinquency prevention and treatment programs and plans, availability of resources, training and educational programs, statistics, and other pertinent data and information.

"RESEARCH, DEMONSTRATION, AND EVALUATION FUNCTIONS

"SEC. 492. The National Institute for Juvenile Justice is authorized to—

"(1) conduct, encourage, and coordinate research and evaluation into any aspect of juvenile delinquency, particularly with regard to new programs and methods which show promise of making a contribution toward the prevention and treatment of juvenile delinquency;

"(2) encourage the development of demonstration projects in new, innovative techniques and methods to prevent and treat juvenile delinquency;

"(3) provide for the evaluation of all juvenile delinquency programs assisted under this title in order to determine the results and the effectiveness of such programs;

"(4) provide for the evaluation of any other Federal, State, or local juvenile delinquency program, upon the request of the Administrator; and

"(5) disseminate the results of such evaluations and research and demonstration activities particularly to persons actively working in the field of juvenile delinquency.

"TRAINING FUNCTIONS

"SEC. 493. The National Institute for Juvenile Justice is authorized to—

"(1) develop, conduct, and provide for training programs for the training of professional, paraprofessional, and volunteer personnel, and other persons who are or who are preparing to work with juveniles and juvenile offenders;

"(2) develop, conduct, and provide for seminars, workshops, and training programs in the latest proven effective techniques and methods of preventing and treating juvenile delinquency for law enforcement officers, juvenile judges, and other court personnel, probation officers, correctional personnel, and other Federal, State, and local government personnel who are engaged in work relating to juvenile delinquency.

"INSTITUTE ADVISORY COMMITTEE

"SEC. 494. The Advisory Committee for the National Institute for Juvenile Justice established in section 478(d) shall advise, consult with, and make recommendations to the Assistant Director for the National Institute for Juvenile Justice concerning the overall policy and operations of the Institute.

"ANNUAL REPORT

"SEC. 495. The Assistant Director for the National Institute for Juvenile Justice shall develop annually and submit to the Administrator after the first year the legislation is enacted, prior to June 30, a report on research, demonstration, training, and evaluation programs funded under this title, including a review of the results of such programs, an assessment of the application of such results to existing and to new juvenile delinquency programs, and detailed recommendations for future research, demonstration, training, and evaluation programs. The Administrator shall include a summary of these results and recommendations in his report to the President and Congress required by section 474(b)(5).

"DEVELOPMENT OF STANDARDS FOR JUVENILE JUSTICE

"SEC. 496. (a) The National Institute for Juvenile Justice, under the supervision of the Advisory Committee on Standards for Juvenile Justice established in section 478(e), shall review existing reports, data, and standards, relating to the juvenile justice system in the United States.

"(b) Not later than one year after the passage of this section, the Advisory Committee shall submit to the President and the Congress a report which, based on recommended standards for the administration of juvenile justice at the Federal, State, and local level—

"(1) recommends Federal action, including but not limited to administrative and legislative action, required to facilitate the adoption of these standards throughout the United States; and

"(2) recommends State and local action to facilitate the adoption of these standards for juvenile justice at the State and local level.

"(c) Each department, agency, and instrumentality of the executive branch of the Government, including independent agencies, is authorized and directed to furnish to the Advisory Committee such information as the Committee deems necessary to carry out its functions under this section.

"SEC. 497. Record containing the identity of individual juveniles gathered for purposes pursuant to this title may under no circumstances be disclosed or transferred to any individual or other agency, public, or private."

TITLE VI—AUTHORIZATION OF APPROPRIATIONS

SEC. 601. Section 520 of Title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended [82 Stat. 197; 84 Stat. 1881; 87 Stat. 197], is further amended by adding at the end thereof:

"SEC. 602. (a) In addition to any other appropriation authorizations contained in this title there is authorized for the purpose of Part F: $75 million for the FY ending June 30, 1975; $150 million for the FY ending June 30, 1976.

"SEC. 602. (b) In adition to the funds appropriated under this section, the Administration shall maintain from other LEAA appropriations other than the appropriations for administration, the same level of financial assistance for juvenile delinquency programs assisted by the Law Enforcement Assistance Administration during fiscal year 1972.

TITLE VII—NATIONAL INSTITUTE OF CORRECTIONS

SEC. 701. Title 18, United States Code, is amended by adding a new chapter 319 to read as follows:

"Chapter 319—National Institute of Corrections

"SEC. 4351. (a) There is hereby established within the Bureau of Prisons a National Institute of Corrections.

"(b) The overall policy and operations of the National Institute of Corrections shall be under the supervision of an Advisory Board. The Board shall consist of fifteen members. The following five individuals shall serve as members of the Commission ex-officio: the Director of the Federal Bureau of Prisons or his designee, the Administrator of the Law Enforcement Assistance Administration or his designee, the Chairman of the United States Parole Board or his designee, the Director of the Federal Judicial Center or his designee, and the Assistant Secretary for Human Development of the Department of Health, Education and Welfare or his designee.

"(c) The remaining ten members of the Board shall be selected as follows:

"(1) Five shall be appointed initially by the Attorney General of the United States for staggered terms; one member shall serve for one year, one member for two years, and three members for three years. Upon the expiration of each member's term, the Attorney General shall appoint successors who will each serve for a term of three years. Each member selected shall be qualified as a practitioner (Federal, State, or local) in the field of corrections, probation, or parole.

"(2) Five shall be appointed initially by the Attorney General of the United States for staggered terms; one member shall serve for one year, three members for two years, and one member for three years. Upon the expiration of each member's term the Attorney General shall appoint successors who will each serve for a term of three years. Each member selected shall be from the private sector, such as business, labor, and education having demonstrated an active interest in corrections, probation or parole.

"(d) The members of the Board shall not, by reason of such membership, be deemed officers or employees of the United States. Members of the Commission who are full-time officers or employees of the United States shall serve without additional compensation, but shall be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of the duties vested in the Board. Other members of the Board shall, while attending meetings of the Board or while engaged in duties related to such meetings or in other activities of the Commission pursuant to this title, be entitled to receive compensation at the rate not to exceed the daily equivalent of the rate authorized for GS-18 by section 5332 of title 5, United States Code, including travel time, and while away from their homes or regular places of business may be allowed travel expenses, including per diem in lieu of subsistence equal to that authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

"(e) The Board shall elect a chairman from among its members who shall serve for a term of one year. The members of the Board shall also elect one or more members as a vice-chairman.

"(f) The Board is authorized to appoint, without regard to the civil service laws, technical, or other advisory committees to advise the Institute with respect to the administration of this title as it deems appropriate.

Members of these committees not otherwise employed by the United States, while engaged in advising the Institute or attending meetings of the committees, shall be entitled to receive compensation at the rate fixed by the Board but not to exceed the daily equivalent of the rate authorized for GS–18 by section 5332 of title 5, United States Code, and while away from their homes or regular places of business may be allowed travel expenses, including per diem in lieu of subsistence, equal to that authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

"(g) The Board is authorized to delegate its powers under this title to such persons as it deems appropriate.

"(h) The Board shall be under the supervision of an officer to be known as the Director, who shall be appointed by the Attorney General after consultation with the Board. The Director shall have authority to supervise the organization, employees, enrollees, financial affairs, and all other operations of the Institute and may employ such staff, faculty, and administrative personnel, subject to the civil service and classification laws, as are necessary to the functioning of the Institute. The Director shall have the power to acquire and hold real and personal property for the Institute and may receive gifts, donations, and trusts on behalf of the Institute. The Director shall also have the power to appoint such technical or other advisory councils comprised of consultants to guide and advise the Board. The Director is authorized to delegate his powers under this title to such persons as he deems appropriate.

Sec. 4352. (a) In addition to the other powers, express and implied, the National Institute of Corrections shall have authority:

"(1) to receive from or make grants to and enter into contracts with Federal, State, and general units of local government, public and private agencies, educational institutions, organizations, and individuals to carry out the purposes of this section and section 411;

"(2) to serve as a clearinghouse and information center for the collection, preparation, and dissemination of information on corrections, including, but not limited to, programs for prevention of crime and recidivism, training of corrections personnel, and rehabilitation and treatment of criminal and juvenile offenders;

"(3) to assist and serve in a consulting capacity to Federal, State, and local courts, departments, and agencies in the development, maintenance, and coordination of programs, facilities, and services, training, treatment, and rehabilitation with respect to criminal and juvenile offenders;

"(4) to encourage and assist Federal, State, and local government programs and services, and programs and services of other public and private agencies, institutions, and organizations in their efforts to develop and implement improved corrections programs;

"(5) to devise and conduct in various geographical locations, seminars, workshops, and training programs for law enforcement officers, judges and judicial personnel, probation and parole personnel, correctional personnel, welfare workers, and other persons, including lay, ex-offenders, and paraprofessional personnel, connected with the treatment and rehabilitation of criminal and juvenile offenders;

"(6) to develop technical training teams to aid in the development of seminars, workshops, and training programs within the several States and with the State and local agencies which work with prisoners, parolees, probationers, and other offenders;

"(7) to conduct, encourage, and coordinate research relating to corrections, including the causes, prevention, diagnosis, and treatment of criminal offenders;

"(8) to formulate and disseminate correctional policy, goals, standards, and recommendations for Federal, State, and local correctional agencies, organizations, institutions, and personnel;

"(9) to conduct evaluation programs which study the effectiveness of new approaches, techniques, systems, programs, and devices employed to improve the corrections system.

"(10) to receive from any Federal department or agency such statistics, data, program reports, and other material as the Institute deems necessary to carry out its functions. Each such department or agency is authorized to cooperate with the Institute and shall, to the maximum extent practicable, consult with and furnish information to the Institute;

"(11) to arrange with and reimburse the heads of Federal departments and agencies for the use of personnel, facilities, or equipment of such departments and agencies;

"(2) to confer with and avail itself of the assistance, services, records, and facilities of State and local governments or other public or private agencies, organizations or individuals;

"(13) to enter into contracts with public or private agencies, organizations, or individuals, for the performance of any of the functions of the Institute; and

"(14) to procure the services of experts and consultants in accordance with section 3109 of title 5 of the United States Code, at rates of compensation not to exceed the daily equivalent of the rate authorized for GS–18 by section 5332 of title 5 of the United States Code.

"(b) The Institute shall on or before the 31st day of December of each year, submit an annual report for the preceding fiscal year to the President and to the Congress. The report shall include a comprehensive and detailed report of the Institute's operations, activities, financial conditions, and accomplishments under this title and may include such recommendations related to corrections as the Institute deems appropriate.

"(c) Each recipient of assistance under this title shall keep such records as the Institute shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance is given or used, and the amount of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

DEPARTMENT OF AGRICULTURE-ENVIRONMENTAL AND CONSUMER PROTECTION APPROPRIATIONS, 1975—AMENDMENTS

AMENDMENTS NOS. 1579–1582

(Ordered to be printed and to lie on the table.)

Mr. HUMPHREY submitted four amendments, intended to be proposed by him, to the bill (H.R. 15472) making appropriations for agriculture-environmental and consumer protection programs for the fiscal year ending June 30, 1975, and for other purposes.

AGRICULTURAL APPROPRIATIONS AMENDMENTS

Mr. HUMPHREY. Mr. President, I am today introducing four amendments to the agriculture appropriations bill so that they can be printed, distributed and reviewed in advance of Monday's session.

I wish to take this opportunity to commend the distinguished Senator from Wyoming (Mr. McGEE), the ranking minority member, Mr. HRUSKA, and the committee staff for producing a budget which reflects the needs of agriculture and the American people.

The PRESIDING OFFICER. The amendments will be received and printed, and will lie on the table.

Mr. HUMPHREY. Mr. President, I ask unanimous consent that the text of the amendments be printed in the RECORD.

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

AMENDMENT No. 1579

On page 12, line 3, strike "$1,500,000" and insert in lieu thereof "7,500,000", and on line 12 of page 12 strike "$108,991,000" and insert in lieu thereof "$114,991,000".

AMENDMENT No. 1580

On page 13, line 15, strike the figure $1,500,000" and insert in lieu thereof "$7,-500,000", and on line 17 of page 13 strike the figure "$218,674,000" and insert in lieu thereof "$224,674,000".

AMENDMENT No. 1581

On page 26, line 12, strike the figure "$20,000,000" and insert in lieu thereof "50,000,000".

AMENDMENT No. 1582

On page 51, line 24, strike the figure "$1,315,630,000" and insert in lieu thereof "$1,321,630,000", and on page 52, line 3, strike the figure $34,000,000" and insert in lieu thereof "$40,000,000".

Mr. HUMPHREY. Mr. President, I ask unanimous consent that Nelson Denlinger and James Thornton be given permission of the floor during the consideration of the agriculture appropriations bill, H.R. 15472.

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

AMENDMENT NO. 1583

(Ordered to be printed and to lie on the table.)

Mr. HRUSKA submitted an amendment, intended to be proposed by him, to the bill (H.R. 15472), supra.

ADDITIONAL COSPONSOR OF AN AMENDMENT

AMENDMENT NO. 1553

At the request of Mr. ERVIN, the Senator from New Mexico (Mr. DOMENICI) was added as a cosponsor of amendment No. 1553, intended to be proposed to S. 1361 for the general revision of the copyright law, title 17 of the United States Code, and for other purposes.

NOTICE OF HEARINGS ON SENATE JOINT RESOLUTION 119 AND SENATE JOINT RESOLUTION 130

Mr. BAYH. Mr. President, the Senate Subcommittee on Constitutional Amendments is scheduling further hearings on

two proposed amendments to the Constitution: Senate Joint Resolution 119, for the protection of unborn children and other persons, and Senate Joint Resolution 130, to guarantee the right of life to the unborn, the ill, the aged, or the incapacitated.

The next day of hearings will be on Wednesday, July 24, in room 6206, Dirksen Senate Office Building, beginning at 10 a.m.

Any persons wishing to submit statements for the hearing record should contact the Subcommittee on Constitutional Amendments, room 300, Russell Senate Office Building, Washington, D.C. 20510.

ANNOUNCEMENT OF HEARINGS ON S. 2234

Mr. WILLIAMS. Mr. President, the Subcommittee on Securities of the Committee on Banking, Housing and Urban Affairs will hold 3 days of hearings on S. 2234 which I introduced with Senators BROOKE, MCINTYRE, PROXMIRE, and TOWER and S. 2683, which Senators BROOKE and TOWER and I introduced at the request of the Securities and Exchange Commission. The bills would provide for the reporting and public dissemination of information concerning the holdings of transactions in securities by institutional investors.

The hearings will be held on August 13, 14, and 15, 1974, at 10 a.m. in room 5302, Dirksen Senate Office Building.

ANNOUNCEMENT OF HEARING ON S. 3394, THE FOREIGN ASSISTANCE AUTHORIZATION BILL

Mr. FULBRIGHT. Mr. President, I announce that the Committee on Foreign Relations will hold a hearing on Wednesday, July 24, at 10 a.m. in room 4221, Dirksen Senate Office Building, to hear public witnesses on the President's legislative request for foreign assistance authorization, S. 3394.

ADDITIONAL STATEMENTS

ACCESSIBILITY: THE LAW AND REALITY

Mr. CHURCH. Mr. President, the Senate Special Committee on Aging has turned its attention within the last 2 years to architectural barriers which deny or limit accessibility to buildings and transportation systems for elderly and handicapped persons.

On behalf of the committee, I conducted hearings which clearly demonstrated that the Architectural Barriers Act of 1968 falls far short of guaranteeing accessibility in Federal buildings constructed since that time.

In addition, I have worked with other Senators who are concerned about accessibility problems within the Capitol of the United States and within the Senate office buildings. Our concern focused not only on the difficulties encountered by visitors to these public facilities, but by handicapped persons whose work opportunities might be limited because of barriers inside or near those buildings. With the Architect of the Capitol, I toured these structures and was impressed with the problems which were uncovered by our guide, a person who required a wheelchair for mobility. Senator JENNINGS RANDOLPH, chairman of the Subcommittee on the Handicapped, took a keen interest in the same problems and joined with Senator WILLIAMS, the chairman of the Labor and Public Welfare Committee, in seeking corrective action. I am happy to report that such action has begun, and it is continuing with the help of Mr. Edward H. Noakes, the chairman of the Committee on Barrier Free Design for the President's Committee on Employment of the Handicapped.

One of our key concerns, of course, has been the effectiveness of the Architectural Barriers Act, and we have been on the watch for useful information on that subject.

One of the most helpful sources of documentation was recently sent to me by Mrs. Evelyne R. Villines, executive secretary of the Iowa Governor's Committee on Employment of the Handicapped.

It is a report called "Accessibility—the Law and the Reality." It is based upon actual surveys by architects, disabled persons, and recorders who surveyed 34 buildings built since the Architectural Barriers Act became law. Their overall conclusion:

> The Architectural Barriers Act of 1968 has not met the stated intent of Congress—to insure that certain buildings . . . are . . . accessible to the physically handicapped as it pertains to Iowa.

Mr. President, other Senators who are equally impressed by this report will discuss its content and other findings in greater detail. I will add my praise to theirs, and I will also suggest that the Iowa model be applied in other States, as well. Finally, I would like to add a word of commendation for Mr. Noakes, who helped to design the survey and who worked closely with Mrs. Villenes and her associates.

Mr. RANDOLPH. Mr. President, as chairman of the Subcommittee on the Handicapped of the Senate Labor and Public Welfare Committee and as a member of the Special Committee on Aging, I have had a longstanding commitment to make our society barrier free for handicapped individuals.

It was my responsibility to sponsor the Architectural Barriers Act of 1968. The principal purpose of that legislation was to insure that certain buildings financed with Federal funds would be accessible to those who are physically handicapped. Additionally, the Rehabilitation Act of 1973 included my amendment to establish an Architectural and Transportation Barriers Compliance Board to insure compliance with the standards developed pursuant to the Architectural Barriers Act. This Board was and is fully supported by Senator STAFFORD, ranking minority member of the subcommittee, Senator CRANSTON, floor manager of the measure, Senator WILLIAMS, chairman of the full committee and all other members of the Subcommittee on the Handicapped.

Much progress, to be sure, has been made since the enactment of the 1968 law. However, further improvements are still needed if we are to develop a barrier-free society for disabled persons and assure them a full opportunity to participate.

This point was made very forcefully in a recent report prepared by the Easter Seal Society for Crippled Children and Adults of Iowa, the Governor's Committee on Employment of the Handicapped, and the Iowa Chapter of the American Institute of Architects. Their survey of 34 federally funded projects in Iowa provides clear and convincing evidence that the spirit and letter of the Architectural Barriers Act has not always been maintained.

Major areas of concern of the report included parking lots, rest rooms, water fountains, public telephones, and adequate precautionary devices for individuals with sight handicaps.

For example, nearly 70 percent of the federally funded projects did not provide parking spaces for disabled individuals. Moreover, in several cases general parking was not even within proximity of the building. Since mass transportation systems are only beginning to become accessible to handicapped persons, they are very often dependent on specially equipped cars. These conditions will, of course, only intensify the problems handicapped persons encounter in even getting to and from their job.

A need also exists to make public telephones more accessible for the disabled. Only about one-half of the buildings surveyed in Iowa had telephones available to handicapped persons. Most of these, though, were office desk phones which are ordinarily available during business hours. Coin operated public phones were generally too high, and the cords too short. Additionally, no telephones surveyed were equipped for persons with hearing disabilities. Because many business, financial, and other transactions are now concluded by telephone, these oversights can create formidable barriers for handicapped Americans. I am hopeful that they can be corrected promptly.

Finally, the study noted that there was, in most cases, adequate identification of rooms and offices from the standpoint of the general public. But there was a basic lack of understanding about some of the unique problems of the blind. For instance, one project had knurled handles or knobs to identify doors not intended for normal use. The need for such safety features, it seems to me, is especially compelling because some of these "off-limits" areas could conceivably prove to be dangerous for a blind person.

Mr. President, the joint report by the three Iowa agencies is a powerful docu-

ment which merits the attention of every Member in the Senate. Senator CLARK, it is my understanding, will ask unanimous consent to have the findings, recommendations, and conclusions reprinted in the RECORD. For the Subcommittee on the Handicapped, I will transmit to the Architectural Transportation Barrier Compliance Board copies of the Iowa study and the remarks of my colleagues.

Mr. President, the Subcommittee on the Handicapped has been working closely with the Architect of the Capitol to make the buildings on Capitol Hill accessible to all citizens; I am gratified that architect Edward Noakes, consultant on this project, has submitted a good report and that work has been started. I urge my colleagues in the Senate to study the Iowa report and the work done on the Hill. It will help us to become even more sensitive to the barriers which mobility-impaired persons face and work to eliminate those barriers in our own States.

Mr. President, I commend the able and diligent chairman of the Special Committee on Aging, Senator CHURCH, for his initiative in coordinating this colloquy on the critical issue of architectural barriers. We have worked in a constant endeavor to insure that the handicapped and elderly have complete access to Federal and other buildings and installations. Additionally, I am grateful for the participation of the Senator from New Jersey, Mr. WILLIAMS, the Senator from Illinois, Mr. PERCY, and the Senator from Iowa, Mr. CLARK, in bringing to the attention of our colleagues and the public the continuing need to develop programs for the elimination of architectural and transportation barriers, thereby providing fuller opportunity for the handicapped and elderly of America.

Mr. WILLIAMS. Mr. President, in far too many cases persons with physical disabilities have found that our society is "off limits" to them. Barriers, both physical and psychological, face them at every turn, from buildings and transportation systems which will not allow them entrance—to public policies and attitudes which preclude them their birthright. As a consequence, large numbers of persons with physical disabilities are being denied equal opportunity to participate fully and effectively in all facets of life.

Despite public laws which argue for full and free access, often these laws fail because of a lack of compliance procedures. As the Subcommittee on the Handicapped found during consideration of the Rehabilitation Act of 1973, compliance with the major Federal law on the subject of Architectural Barriers (Public Law 90–480) faltered because of unclear compliance procedures and administrative responsibility. As a result of these findings, the subcommittee, under the able leadership of Senator JENNINGS RANDOLPH, Senator STAFFORD, and Senator CRANSTON, created the Architectural and Transportation Barriers Compliance Board, currently housed in the Department of Health, Education, and Welfare and charged with oversight and investigation of compliance with Public Law 90–480 and other laws seeking a barrier-free environment.

A recent study on "Accessibility—the Law and the Reality," conducted by the Iowa Chapter of the American Institute of Architects, Easter Seal Society for Crippled Children and Adults of Iowa, Inc., and the Iowa Governor's Committee on Employment of the Handicapped—gives further confirmation to the need for implementation of the Architectural and Transportation Barriers Compliance Board.

This hard-hitting factual document includes several sound and sensible recommendations to help assure that buildings financed with Federal funds are, in fact, accessible to persons with disabilities.

Public buildings, and especially Federal buildings, are financed with tax dollars from all Americans and include many dollars contributed by Americans with physical disabilities. Yet most of these buildings, despite laws on the subject, are constructed without the slightest consideration to the special needs of these persons. My colleagues here today have pointed out many of the recommendations cited by the Iowa study. One of the major points made is that there is a general lack of understanding about the problems of persons with various types of disabilities. As that study states:

> The most positive answer lies in education—an informed design professional, agency administrator, building owner, and general public will best assure that the needs of the handicapped are met.

Educational efforts were urged in a number of critical areas, including handrail design, safety identification requirements for the blind, and others.

The recent Iowa report also urged action on several fronts to help make this goal a reality.

One of the priority recommendations was to require that accessible parking spaces for the handicapped be located within proximity of buildings financed with Federal funds. Because this provision is not now mandated, many handicapped persons are deterred from seeking valuable social services at Federal agencies, inquiring about helpful Federal benefit programs, or perhaps seeking employment with a U.S. agency. But in the words of the Iowa report, "This shortcoming is relatively easy and inexpensive to correct and should be accomplished." And, I fully concur.

The report noted that over one-third of the 34 buildings surveyed in Iowa did not have accessible drinking fountains. To correct this problem, the Joint Committee urged that plumbing code standards and manufacturers recommendations for mounting height should be adjusted to facilitate use by those in wheelchairs.

This report is the first of its kind that I have seen, but its importance cannot be overestimated. It represents the effort of an individual State to review public policy in this area comprehensively, and to make sound and reasonable recommendations for change. This kind of awareness serves an important role in the policy process.

As my distinguished colleague, the Senator from West Virginia has noted, with the assistance of Senator CHURCH and other colleagues, the Subcommittee on the Handicapped has undertaken a study of the Capitol area, and the Architect of the Capitol has begun work to make these buildings barrier-free. These efforts, along with work being done on major mass transportation systems, will serve to stimulate a comprehensive awareness of these problems. This is also one of the major goals of my proposal for a White House Conference on the Handicapped (S.J. Res. 118) which is pending before the House Committee on Education and Labor. It is my hope that this Conference can develop a blueprint for comprehensive action to make our society barrier-free for the disabled.

In conclusion, Mr. President, I commend this report, "Accessibility—the Law and the Reality," to my colleagues, and will join with Senator RANDOLPH in transmitting this report with the statements made today to the Architectural and Transportation Barriers Compliance Board for their review and action.

Mr. PERCY. Mr. President. I take this opportunity to join my colleagues in commending the Easter Seal Society of Iowa, the State's Governor's Committee on Employment of the Handicapped and the Iowa Chapter of the American Institute of Architects for their fine effort to survey the effectiveness of the Architectural Barriers Act of 1968, Public Law 90–480, in Iowa. Although Public Law 90–480 was enacted in 1968, the Iowa effort represents the first attempt to systematically review the statewide application of the law. The strength of this Iowa effort lies in its sensitive conclusion that the success of Public Law 90–480 will depend not so much on the punitive enforcement of the letter of the law but, rather, on the education of the industry, government, and the public to a full understanding of the meaning of accessibility.

Without such an understanding, architects, designers, and building professionals tend to follow the letter of the law, not its spirit. Take the example of entrances, the key of access to any facility. When Congress enacted the Architectural Barriers Act of 1968, it intended that facilities financed with Federal funds be designed and constructed to be accessible to the physically handicapped. However, the accessibility standards specify only that at least one primary entrance to each building be usable by individuals in wheelchairs. Following the letter of the law, wheelchair users could be relegated to one entrance, not necessarily the most convenient entrance. Following the spirit of the law, all doors would be uniformly wide enough for wheelchair users to pass through. As the Iowa report "Accessibility, the Law and the Reality" indicates, compliance with the spirit of the law is a still distant goal.

In the interest of attaining that goal, the Iowa effort can act as a blueprint for all other States interested in undertaking similar surveys. For my own part, I have suggested to the Illinois Governor's Committee on Employment of the

Handicapped that it coordinate a similar effort to review the effectiveness of Public Law 90–480 in Illinois. With sufficient interest Public Law 90–480 may finally fulfill the intent of Congress that the independence and dignity of all handicapped persons be realized.

Mr. CLARK. Mr. President, about one out of every seven Americans has a permanent physical disability. But all of the available statistics, facts and studies show that these individuals can be productive citizens if they are given a full opportunity to participate in our society. To achieve this goal, it is absolutely essential that public facilities and buildings be accessible to the physically handicapped.

In 1968, under the leadership of my friend and colleague Senator RANDOLPH of West Virginia, Congress took an important step with the enactment of the Architectural Barriers Act. This legislation already has had a major impact in opening the doors to new employment, service, and other essential opportunities for handicapped persons.

Recently, a comprehensive study on the provisions of Public Law 90–480 was made by the Iowa Chapter of the American Institute of Architects, in conjunction with the Easter Seal Society for Crippled Children and Adults of Iowa and the Governor's Committee on Employment of the Handicapped. Their conclusion: The spirit of the law still has not been fulfilled.

More than 3,000 buildings have been constructed with some form of Federal support since the Architectural Barriers Act became law. In Iowa, 34 projects have been federally funded since 1968. And, these 34 buildings were thoroughly investigated to determine whether they met the standards and requirements of the Architectural Barriers Act.

The report gave this candid assessment:

Although there have been great improvements made as a result of the law, too many deficiencies were noted to judge the majority of projects built under the law fully accessible. There is an apparent lack of full understanding of the problems of the physically handicapped on the part of the design professionals, building owners and agencies administering federal funds.

This condition, however, need not persist. This society should not be "off limits" for the disabled. With a clear-cut sense of commitment and sound policies, facilities can be made barrier free for the handicapped, and at a reasonable cost.

Mr. President, in many respects Iowa has been a leader in removing architectural barriers for aged and handicapped persons. The recent study by the Iowa chapter of the American Institute of Architects on "Accessibility—the Law and the Reality" is an outstanding example of this leadership.

Despite some of the sobering conclusions, it remains optimistic:

Fortunately, we are in a time when the potential and value of each human life is recognized. It is the fervent hope of the agencies sponsoring this survey that it will serve as an example for similar projects across the country, that as a result there will be an ever increasing circle of awareness of what needs to be and should be done to provide buildings which recognize the independence and dignity of all handicapped persons.

Mr. President, I commend the report on "Accessibility—the Law and the Reality" to my colleagues, and ask unanimous consent that the first three sections be printed at this point in the RECORD.

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

SECTION 1.—THE CONCEPT AND DEVELOPMENT OF THE SURVEY

The Architectural Barriers Act of 1968, Public Law 90–480, was passed by the Nintieth Congress on August 12th of that year. Its purpose was to insure that certain buildings financed with federal funds are designed and constructed as to be accessible to the physicially handicapped. The authority to prescribe standards for design, construction and alteration of buildings under their administration to conform to the law was granted to the Administrator of General Services, Secretary of Housing and Urban Development, and Secretary of Defense, each in consultation with the Secretary of Health, Education and Welfare. In practice, all adopted the basic design criteria of the American Standard Specifications for making buildings and facilities accessible to, and usable by, the physically handicapped, A117.1 (R 1971).

More than 3000 buildings have been constructed under the jurisdiction of this law. The President's Committee on Employment of the Handicapped expressed concern that these buildings vary in their degree of accessibility. As a result, their Barrier Free Design Committee—chaired by Edward H. Noakes, A1A, invited the Iowa Chapter American Institute of Architects to spearhead a survey of 34 projects in Iowa, federally funded since 1968, to determine to what extent they fulfill the standards set by the law.

Consumer assessment was considered extremely important. Since the Governor's Committee on Employment of the Handicapped and the Easter Seal Society for Crippled Children and Adults of Iowa, Inc., are active in working with problems confronting the handicapped they were contacted, responded eagerly, and became very effective co-sponsors of the pilot project. A steering committee composed of representatives from the three sponsoring agencies and students from Iowa State University, School of Architecture, Ames, Iowa, was organized. The Regional Office of the General Services Administration in Kansas City was advised of the proposed project, endorsed it and has provided advice and counsel throughout the survey.

The initial meeting of the Steering Committee was held October 15, 1973, with the following general plan developed:

A. Since there were apparently no available federal funds for this purpose, it was decided to plunge forward depending on volunteer efforts with individuals paying their own expenses. Costs of mailing, preliminary printing, duplication, etc., were to be absorbed by the sponsoring agencies.

The question of printing costs for the final completed report was a concern. Fortunately, through the cooperation of the Governor's Committee on Employment of the Handicapped, this problem was resolved.

B. Each survey team would be comprised of an architect, a disabled individual who is confined to a wheel chair, and a recorder. Organization of the teams was a joint effort by the executive directors of the three sponsoring agencies.

C. The 34 buildings in the Iowa inventory were divided into 12 geographical groups—each of which could be surveyed by one team.

D. A checklist to be used as the common basis for judgement of the buildings was to be developed by a subcommittee. The basic source for material, was ANSI 117.1 (R1971) and information from survey forms used for accessibility survey projects at Iowa State University and the State University of Iowa.

E. On completion of the checklist, a trial run survey was to be conducted by a team from the Steering Committee: Villines (Consumer), Karlsson (Recorder), and Broshar (Architect). This team would then serve as the "faculty" for an all day orientation session with all team members prior to conducting the general survey.

F. It was determined that the final report would consist of two parts: The first part would deal with those items not complying with the standards and the Barrier Act of 1968. The second part would deal with evaluation of the standards and their effectiveness in fulfilling the intent of Congress to provide accessibility for physically handicapped persons.

G. A time table was established with target dates as listed:

November 10th—All team members assigned and committed.

November 15th—Checklist completed for review and refinement by the Steering Committee.

December 7th—Orientation Session of all team members from 10:00 A.M.-3:00 P.M. at the Eastern Seal Society, Camp Sunnyside—lunch to be catered.

December 7th-January 15th—Surveys to be made and reports submitted to the Iowa Chapter, AIA.

January 15th-April 1st—Reports recapped, summary prepared and final comprehensive survey and recommendation document prepared and printed.

Although some modifications were required the general plan and time table held up quite well in practice and in the judgement of our committee could be effectively used as guidelines for similar projects.

The response from those contacted to serve on teams was excellent. One man and wife, both wheel chair consumers, volunteered to serve on a team together—one as a recorder and one as a consumer. The orientation session was most effective: Participating were Edward H. Noakes from Washington, D.C., and Tom Crawford from the Kansas City office of the G.S.A. The team participation was enthusiastic and attendance was nearly perfect. In addition to serving its educational function, the meeting established an excellent spirit of goodwill and common cause. Teams were also briefed on means and methods of contacting the news media regarding the survey activities. The resultant coverage by television and newspapers across the state was very good. Once apprised of the nature of the project, building owners were very cooperative in scheduling surveys, providing guides, and making facilities available to the teams.

Reports were generally completed and submitted in accordance with the time schedule. The Steering Committee then was faced with the frustrating task of sorting out and organizing the data so that the individual problem areas could be defined and analyzed, conclusions drawn and recommendations developed. To organize this work into "bite size" elements, the staff of the Easter Seal Society prepared a tabulation of the survey reports, including pertinent comments. Copies were distributed to each survey committee member, who in turn prepared his own brief overviews prior to meeting to determine the conclusions. Two all day sessions were then required to develop

the summary and recommendations, so that the report could be written. The self defined role of the committee has been to inform, recommend and, if possible, educate. One of the direct results of the project was a seminar on Barrier Free Architecture presented by committee members to approximately 200 architectural students at Iowa State Universtiy in March. A Barrier Free Workshop is planned for the member Iowa Chapter, AIA, after completion of the report. The owners of a project surveyed will be furnished with a copy of their individual checklist, a copy of the final printed report, and a letter thanking them for their cooperation and urging their careful analysis and consideration of corrections where needed. Finally, a "wrap up" meeting is planned for all survey workers and others who have participated so that they can be informed of the overall results and impact of their efforts.

SECTION 2.—CATEGORICAL SUMMARY OF THE SURVEY AND RESULTANT RECOMMENDATIONS

A. Parking Lots

In nearly 70% of the projects parking provisions were not made for the handicapped. Several instances were noted in which "not even general parking" was provided in close proximity to the building. It should be pointed out that some parking, close to the building access, is much more critical to the handicapped than to the general public.

Recommendation:—Although the standards appear to be clear and concise, wording is not mandatory. It is recommended that provision of accessible parking spaces approximate to the building and otherwise in accordance with the standards be required. Of those projects surveyed with parking lots, many did not identify or provide accessible stalls. This shortcoming is relatively easy and inexpensive to correct and should be accomplished.

B. Walks

General compliance with recommendations of the standards was excellent. However, about 20% were deficient in "blending to a common level" where walks cross other walks, driveways or parking lots.

Recommendation:—The standard is adequate, but additional awareness of the need for "blending of surfaces" for the handicapped as defined in 4.2.3 is required.

C. Ramps

Of the ramps encountered, most complied with the requirements. There did appear to be confusion regarding use of handrails. There was apparently some problem in defining the difference between a ramp and a sloping walk.

Recommendation: The standards should stipulate at what minimum slope handrails are required. Other requirements seemed clearly stated.

D. Entrances and exits

Nearly all of the buildings surveyed met the minimum requirement of one primary entrance usable by individuals in wheelchairs.

Recommendation: Although the standard does state it is preferable that most entrances and exits be accessible, it is the recommendation of the committee that this should be strengthened. Emergency exits, under most existing codes, become hazards for the handicapped.

E. Doors and doorways

General compliance with door size requirements was excellent although in the judgment of the teams there were some problems with ease of operation and change of level through the doorways. Both of these problems relate directly to hardware.

It should be pointed out that excessive level changes at the threshold are potential hazards for all users of buildings.

Recommendations: Since the problem of ease of operation relates to hardware, it is recommended that the finish hardware manufacturers be given the challenge to develop door closers which will allow opening with relative ease while closing firmly and with adequate resistence to wind pressures.

While automatic entrances provide an ideal solution, economics generally preclude their use on all but primary entrances on major buildings.

F. Stairs and steps

Nearly one-fourth of the stairs surveyed were built with abrupt nosings diagrammed as unacceptable in the standards. This is probably related to standard detailing practice for steel pan stair construction, a very popular and economical method of building stairs. There was some confusion regarding the wording in the standards—"Steps in stairs that might require use by those with disabilities. . . ."

Some variation in handrail heights (from 29 inches to 34 inches) was encountered, and rarely did the handrails extend the prescribed 18 inches beyond the top and bottom steps. Conformance with riser height recommendations was generally good.

Recommendations: Clarification is necessary in the wording of the standard regarding which stairs shall not have abrupt (square) nosing. It was not clear to the committee how to determine which stairs might not be required for use by the disabled.

In addition, studies in modifying standard details for metal pan stairs both by architects and the industry, could be beneficial in resolving this problem.

Although the handrail requirement is clearly stated, there have been a number of varying standards and practices in use for many years. Education, administration and a standardization of codes all are required for a satisfactory solution.

G. Floors

There are two basic areas of concern here—the surface of the floors and a common level throughout a given story.

From their answers it is apparent that team members had some difficulties in defining "non slip". For example, both vinyl asbestos tile and terrazzo were listed as slippery and non-slip. In general, however, the floors were judged to be satisfactory. Regarding the requirement that floors on a given story be of a common level, although only three "no's" were indicated, a careful review of the comments indicates that at least five or six additional projects had mezzanine or other areas separated and accessible only by stairs or non-complying ramps. This problem seems to relate particularly to educational facilities with lecture rooms requiring sloped or stepped seating for proper vision lines.

Recommendations:—Although it was apparently not a major problem, it would be advantageous to have a more specific definition of "non-slip".

A literal reading of 5.5.2 would appear to be too narrow in scope. It's most important that the designer be aware of the potential needs of the handicapped during the conception as well as the detail portion of the design process. Whereas, it may be mandatory to have tiered seats in a lecture room or auditorium, provisions for accessibility of both a handicapped student or audience member as well as a handicapped lecturer should be an integral part of the design program.

H. Rest rooms

In general, the details prescribed by the standards were provided. However, there was considerable discussion both by the survey teams and the reviewing committee as to the adequacy and appropriateness of certain standards.

Most facilities did have an appropriate number of accessible toilet rooms for each sex, did have maneuvering space for wheelchairs and did provide oversized toilet stalls as required. On the other hand, over 25 percent had inadequate doors to provide access to the designated stall; grab bars in many cases differed from the standards; and the maneuvering space in front of the stalls was too small for wheelchairs turning in 40 percent of the cases surveyed. A majority of the toilet rooms did not have drain pipes and hot water pipes covered, had mirrors, dispensers and shelves higher than 40 inches above the floor, and did not provide wall mounted urinals at the required level.

Recommendations:—Total study of rest room accessibility standards is required to provide facilities which recognize the independence, privacy and dignity of the handicapped individual. Specific areas of concern include the following:—

(1) Toilet stall design—The required stall depth of 4 feet-8 inches was considered less than minimum. Additional study should be directed to side vs. front access to the water closet and its effect on stall design.

(2) Grab bars—The standards prescribe bars parallel to the floor, whereas many of the surveyors preferred the 45 percent angle bars encountered. It's apparent that different configurations benefit different handicaps, but perhaps a combination of the two would benefit all. This requires further study.

(3) Accessible urinals—There was a general lack of understanding for the mounting height requirement. If the 19 inch mounting height is valid, plumbing code mounting heights, as well as those recommended by fixture manufacturers, should be brought into compliance.

(4) Although the covering and/or insulating of pipes under a lavatory is listed as a footnote under Art. 5.6.3, there should be some clarification of the hazard. Often the location of the piping thermostatically controlled hot water, or other reasons would appear to eliminate the problem.

I. Water fountains

In retrospect, it appears that our questionnaire was more detailed than necessary, and as a result there was some confusion on the part of the survey teams.

One conclusion was clear—over one-third of the buildings did not have accessible drinking fountains in accordance with the standards and the law.

The major problem with drinking fountains was the height of controls and bubbler. Most were wall mounted and the manufacturer's standard mounting height of 40 inches is excessive for most wheelchair users. The other inaccessible fixtures were either flush mounted recessed fountains or fountains mounted in narrow recesses.

Recommendations: — Planning Code standards and manufacturers recommendations for mounting height should be adjusted to accommodate the wheelchair users. The inconvenience of lower height to the average user is minimal if anything, particularly when compared to the benefit to the handicapped.

The provision of paper cup dispensers will solve the problem in many existing inaccessible drinking fountain installations.

J. Public telephones

At least half of the buildings surveyed had telephones available and accessible to disabled persons. However, most of these were desk phones in offices which are only available when the offices are open. Coin operated public phones were generally too high—the coin slot was too high and the cord too short.

At least, it was noted, the handicapped person was unable to reach the coin slot when he couldn't dial.

No telephones surveyed were equipped for persons with hearing disabilities.

Recommendations:—Since the telephone companies are generally responsible in de-

termining both the numbers and types of installations of public telephones, they should be informed of these deficiencies and the law. The wording of the standard should be clarified to state whether the equipping of an appropriate number of public telephones for those with a hearing disability is a recommendation or a requirement.

K. Elevators

Where applicable, most elevators were available and useable by the handicapped. One exception was an educational institution where the handicapped were expected to use a freight elevator which was judged inaccessible because of its key operation, as well as a number of apparent operational hazards. A common criticism (more than half) was that the controls were mounted too high, and most did not have raised or indented letters on the controls.

Although our check list asked if the cab were 5 feet x 5 feet, it more appropriately should have asked if the elevator allowed for traffic by wheelchair. In several instances, it was noted that a cab less than the dimensions noted was adequate. There was concern expressed in one instance over the distance between elevator car and threshold being a hazard. No reference to this is made in the standard.

Recommendations:—Elevator manufacturers should be made aware of the need for lower mounting heights for operating controls. There was unresolved discussion regarding the appropriateness of raised or indented letters on the controls. Obviously, this should be resolved as the result of a study beyond the scope of this report.

L. Controls

In general the controls and switches noted were within the reach of individuals in wheelchairs. Fire alarm switches and fire extinguishers in some instances were high, but with new standards all would be accessible.

Recommendation:—With the seemingly illogical "standard" mounting heights for the switches and controls generally used in public buildings and the resultant jumbled appearance, it would seem evident that all should be mounted at one common height which would be a convenience to the public and also accessible to the handicapped.

M. Identification

Although identification of rooms and offices for the general public was quite good in the projects surveyed, there was a general lack of understanding of the problems of the blind. The standards are definitive and when followed would appear to benefit all users as well as the blind.

Only one project of all those surveyed used knurled door handles or knobs to identify doors which are not intended for normal use and might prove dangerous if entered by a blind person. There was a general lack of familiarity with this identifying device both on the part of the surveying teams and the review committee.

Recommendations:—The solution to compliance to this standard appears to be education and administration. Fortunately, it is relatively easy to accomplish in existing structures.

N. Warning Signals

Three fourths of the buildings did not have visual warning systems while most had audible.

Recommendations:—Since the equipment and systems are available to meet this requirement, education and administration are the means to assuring compliance with the law. State and local fire marshals should be aware of this requirement since alarm systems fall within their domain.

O. Hazards

Conformance with the requirements of this section was generally quite good.

Deficiencies generally related to signs, fixtures or objects that projected into hallways (below 7 foot heights) and a review of the comments indicates that a number of these problems are the result of items added after completion of the project.

Recommendations:—None.

SECTION 3.—GENERAL CONCLUSIONS

The conclusion of this survey must be that the Architectural Barriers Act of 1968 has not met the stated intent of Congress—"to insure that certain buildings . . . are . . . accessible to the physically handicapped as it pertains to Iowa.

Although there have been great improvements made as a result of the law, too many deficiencies were noted to judge the majority of projects built under the law fully accessible. There is an apparent lack of full understanding of the problems of the physically handicapped on the part of the design professionals, building owners and agencies administering federal funds. The standards adopted while generally good, require clarification in certain areas and detailed review in others.

The standards clearly define the various categories, but the difficult problem of deciding what degree of disability should be designed for has not been resolved.

The lack of understanding cited is illustrated in the classroom building which featured second floor toilet facilities beautifully executed in compliance with the detailed requirements of the standards, but accessible only by non-conforming stairs or non-conforming key operated elevators. Several of the buildings surveyed had met all entrance acessibility requirements, but failed to provide any parking spaces within a reasonable walking distance to the entrances.

Compliance with the total spirit of the law is the ideal to be sought. The specific accessibility deficiencies are noted in the second section of this report, along with tabulation sheets. Major areas for concern seemed to be parking lots, rest rooms, water fountains, public telephones and provisions for those with sight handicaps.

The American Standards were generally judged to be good. It was the feeling of the review committee that accessible parking for the handicapped be required rather than recommended, that stairs meeting accessibility standards should be more closely defined, and that a total restudy of toilet room requirements—particularly toilet stall size and shape be initiated.

Some problems encountered related to manufacturing or industry standards. The hardware industry, if properly motivated, should be able to solve the problems encountered by the handicapped with difficult door closers. Modification of industry standards such as plumbing fixture mounting heights, control and switch heights, pay telephones, and elevator controls to conform to the accessibility standards would resolve the problems simply.

Several areas for improvement can be noted: Improve the standards, educate industry to meet their obligations, strengthen administration of the law. But, the most positive answer lies in education—an informed design professional, agency administrator, building owner, and general public will best assure that the needs of the handicapped are met. Although the scope of this survey is limited to buildings built under Federal Law P.L. 90–480, it is also a law in Iowa that all public buildings be accessible. It seems only logical that any building designed for public access and use should be equally accessible to the physically handicapped.

Fortunately, we are in a time when the potential and value of each human life is recognized. It is the fervent hope of the agencies' sponsoring this survey that it will serve as an example for similar projects across the country, that as a result there will be an ever increasing circle of awareness of what needs to be and should be done to provide buildings which recognize the independence and dignity of all handicapped persons.

THE MEDIA

Mr. GOLDWATER. Mr. President, much of the American press—in the opinion of most of the Nation has gone beyond the bounds of fairness in its determination to drive Nixon out of office.

I have known this for some time, as have other politicians and even commentators.

But it took a top editorial writer on a great newspaper to lay it out the way the situation really deserves.

My reference is to the Arizona Republic which, in a lead editorial in July 7 told the story the way it is. To quote the Republic, "the media is in hot water."

Mr. President, this condition rarely exists. Even more unusual is to have it pointed out by a segment of the media. This is fitting, however, because there is not a newspaper in the country which treated Watergate and related matters with more objectivity and fairness.

Even so, it is not often that one part of the media is moved to blow the whistle on one of its professional brethren.

The Republic's editorial points out that at a time when the press should be receiving plaudits for a job well done in the public interest it finds itself at a low point in public esteem.

The editorial said:

At its annual convention last spring, the prestigious American Society of Newspaper Editors took on some of the aspects of a wake with committee chairmen reporting gloomily on the public's attitude toward the press.

It went on to attribute the public's attitude to the media's failure to be fair with the President.

Mr. President, because of its extreme importance to the Members of Congress, I ask that the July 7 editorial of the Arizona Republic be printed in the RECORD.

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

THE PRESS IN HOT WATER

While the Rodino committee moves with glacial deliberateness toward a vote on impeachment, the press is examining its own role in bringing the Watergate scandals to public attention. Quite obviously the media is in hot water.

Time magazine's current issue contains an exhaustive six-page cover story headed "The Press: Fair or Foul." It is followed by a two-page essay titled: "Don't Love the Press, But Understand It."

Newsmen, not congressmen or court prosecutors, exposed the activities of Dean, Magruder, Colson, the Plumbers, Kleindienst, Mitchell, Stans and all the rest.

And yet, far from being hailed for cleansing the Augean stables, the press today finds itself at a low point in public esteem.

At its annual convention last spring, the prestigious American Society of Newspaper Editors took on some of the aspects of a wake with committee chairmen reporting gloomily on the public's attitude toward the press.

A recent Gallup poll found only half (52 per cent to be exact) of daily newspapers do a good job in presenting both sides of a controversial issue. Mervin Field's California

polls have shown a decline from 55 to 44 per cent in the number of people who consider the Watergate coverage as unbiased.

Perhap's because Time's reporting is often excellent but seldom unbiased, the thrust of the magazine's massive report is that attacks on the press, particularly over Watergate, have become "mindless and reflexive."

We're not at all sure that the present depressed state of confidence in the press can be so easily explained away. In simple point of fact, the Eastern Establishment press has carried out a nonstop assault on Richard Nixon such as no American president in this century has been exposed to.

Since Carl Bernstein and Bob Woodward sniffed the first breath of political corruption in the Watergate burglary. The Washington Post and its allies (Time, Newsweek, The New York Times, CBS, etc.) have shown all of the strengths but few of the restraints expected of the Fourth Estate.

That these attacks have performed a service for the country is crystal clear. That cannot, and should not, be gainsaid.

But they have frequently done so at the expense of law, tradition and good taste. The new Bernstein-Woodward book (which will earn the two young reporters a cool half-million dollars) tells how Bernstein, warned that a subpoena had been issued for him, called his managing editor at The Washington Post and told him to remove his (Bernstein's) files.

That may not be contempt of court, since the subpoena had not actually been served, but it certainly is obstruction of justice, and is just as reprehensible when newsmen do it as when government officials shred documents or when the President refuses to turn his memoranda and tapes over to a congressional committee.

In fact, it is more reprehensible unless you believe there is no such thing as executive privilege, and not even the Nixon-haters have made that claim.

How can a newspaper columnist (i.e. Jack Anderson) demand that the White House staff members obey the most minuscule provisions of the law, when he himself thinks nothing of violating the sanctity of the grand jury by publishing verbatim transcripts of grand jury testimony?

Much of the American press, in our estimation and probably in the opinion of most of the nation, has gone beyond the bounds of fairness in its determination to drive Nixon out of office.

It is failing in that goal, and if Congress can only be goaded into getting impeachment behind it, there is a chance that the government and the people will be able to find their way back to the sanity that has ruled most of America's 198-year-old history.

Then, and only then, will there be an end to what Time calls "an estrangement between the press and large numbers of Americans." We heartily concur in Time's opinion that such estrangment "is dangerous, not merely to the press but to the country." Where we differ from Time is fixing the blame for that estrangement.

NOT A LOSER IN THE CROWD

Mr. MOSS. Mr. President, the July/August issue of Astronautics and Aeronautics includes an article describing a recent Michigan symposium on Earth resources technology satellites. Similar symposiums have been held in Utah and in Oregon.

Because of the widespread interest in Earth resources technology satellites, which bring the benefits of our investments in space to State and local users, I ask unanimous consent that this article be printed in the RECORD for the benefit of my colleagues.

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

NOT A LOSER IN THE CROWD

(By Bruce Frisch)

(The ERTS in Michigan Symposium can serve as a model for other Sections to follow in their states:)

When Argentina bought an Earth Resources Technology Satellite (ERTS) ground station from Bendix, it conducted a ground truth survey of an agricultural area for the opening exercise in analyzing remotely sensed data. Government agents asked each farmer what he had planted where. Later, puzzled Bendix experts found their computerized crop classifications from ERTS data differed for many sections of land. Checking revealed that farmer had misled the government questioners in order to lower their taxes. The ground "truth" was wrong, ERTS right.

No doubt a number of Argentine farmers now believe in the accuracy of ERTS data. Last month the AIAA Michigan Section held a symposium to convince possible users in Michigan. "There's a great lack of communications between users and remote-sensing people," agreed Symposium speaker William Walsh of the Michigan Department of Natural Resources. "We tried to reach any level at which people are called on to write reports," explained William J. Pollard of Bendix Aerospace Div., co-chairman and spark-plug of the symposium. In the audience of around 100 sat many of just that sort of person.

In his keynote speech Rep. Marvin L. Esch, ranking Republican on the Subcommittee on Space Science and Applications of the House Science and Astronautics Committee, said he hoped "Michigan can move forward to become a model state showing other parts of the country what can be done to apply effectively the scientific knowledge which ERTS will afford us in the decade ahead." To put ERTS to use, said Esch, the Federal government must share the cost of application.

The speakers who followed quickly made clear that though 1000 mi. from the ocean Michigan has an overbearing concern for water. About 700 mi. of the state's Great Lakes shoreline are eroding quickly under the onslaught of recent high waters, pointed out Walsh. Around 300 mi. of that is developed, he said, as he showed houses slipping into the water.

On land, a shortage of information has contributed to the slowness in legislating land-use bills, said Albert Sellman of the Environmental Research Institute of Michigan (ERIM). "Proposed land-use bills deteriorate into critical-land use bills when government decides it's not ready to take on the whole job. . . . To control use, you must monitor." "There is a natural dislike in our society for organization and rationalization for planning, said Ray Guernsey of Johnson, Johnson and Roy, consultants. He hoped the information coming out of remote sensing could help overcome such antipathy.

Some problems ERTS cannot yet touch. It has too low resolution to help overcome what Donald D. Webster of DNR described as one of Michigan's biggest shortcomings, a lack of topographic maps of 7 ½-min quadrangles used in local planning. Michigan places 40th among the states in coverage and will not complete mapping following the present schedule until 2049. Although a rich state in a rich country, Michigan has the same underlying problem as poor, developing nations—limited money and manpower. Even for Michigan, Congressman Esch's proposal for cost sharing makes sense.

The smallest unit of ERTS resolution, the picture element or pixel, measures about 1.1 acre. The Michigan Dept. of State Highways and transportation uses an 8-pixel-square cell for its computer routing of new roads.

Laurence B. Istvan of ERIM squeezes information out of the ERTS data down to the individual pixel, since his interest lies in small lakes. When placed over a detailed topographic map, the stepped outlines of areas classified as water from ERTS data matched ponds and even islands in the ponds amazingly well. Altogether the program participants must have presented a score or more of actual uses of data from Skylab and ERTS spacecraft and KB-57, U-2 and lower flying aircraft.

The panel discussion at the end of the day brought out the reactions of some potential users to what they had seen. "This hocus-pocus stuff you were showing today" Nelson Thomas of the Environmental Protection Administration (EPA) called it. Nevertheless, he noted that EPA now times the sailing of its ships on the Great Lakes with ERTS overpasses.

"We're a nuts-and-bolts engineering outfit," said Charles Johnson of the Army Corps of Engineers. "We feel we're being beset by a bunch of salesmen who are selling us mysterious techniques that we're not too sure are useful. . . . They say try it, trust us, and let's do it. It would help a great deal if instead [of selling] you would concentrate on educating us as to exactly what each band means. Then we can go in and monitor contracts." Johnson's feelings suggest prefacing such a symposium with a short introduction to multispectral scanning and the forms of photography.

Don Lowe of ERIM partly agreed with Johnson. "Everyone thinks remote sensing was oversold to begin with," he said. "Now that we have the user's attention we have to produce."

However, Robert H. Johnson of Bendix throughout "the user wants information, and he could care less how we got it."

Thus by the end of the day the symposium reached a nice balance by getting feedback from the users.

In this and many other ways the Michigan symposium can serve as a model for other Sections in other states. Another Section will need another Willard Pollard—someone to supply the main push. But it probably should not rely so completely on one person. The excellent quality of the acquaintanceship of program chairman Robert H. Rogers of Bendix, himself an ERTS principal investigator. Pollard and Rogers limited those on the program to Michigan people which ensured their sticking to local interests.

On timing, Pollard found he needed reasonably firm plans about two months in advance in order to then send out letters inviting the most important personages. Be prepared for disappointment. Looking back, Pollard thinks it might have been wise to include in the letter to the governor the name of an acceptable alternative representative in case he could not make it, as he could not. Vice-President Ford sent a telegram read to the symposium wishing it success.

Watch for conflicts of dates. Top people in the Department of Natural Resources had to attend a meeting of the Commission which governs it and could not get to Ann Arbor.

The good cross section of attendees resulted from mailings to Section Members, the American Institute of Planners, 20 regional planning directors, the American Society of Photogrammetry, industry and business, and a list compiled by the NASA remote-sensing project at Michigan State Univ. of persons interested in remotely sensed imagery. Pollard got most lists simply by asking.

Philip Schaub at AIAA Headquarters wrote a press release and mailed it to his list of area media and will do the same for anyone else requesting it. The Sections's Larry Reed of Bendix called 10 of the most im-

portant local media individually. No release went out summarizing what the speakers would say, but Pollard now believes that papers and stations that did not attend might have found one useful. In any case, the symposium was not a media event; it aimed at informing the restricted group invited.

A key to the success of the symposium is that everyone involved felt he profited from the day. "There wasn't a loser in the crowd," says Pollard.

Bendix backing proved valuable. Pollard's request went from his boss, Earth-resources director Park Curry, up to Aerospace Div. general manager Robert Schaeffer. Schaeffer gave him an account number and $500 worth of man-hours to charge against. The symposium gained printing and other services, use of a meeting room, projectors and sound system, and an arrangement for attendees to eat in the company cafeteria. Pollard also then felt free to call on others in the company for odd jobs. He carefully avoided the hardsell of packing the program with company people. Only a panelist came from Bendix. No doubt Bendix has a strong vested interest, but others elsewhere do too and may welcome the opportunity to help.

At AIAA Headquarters Leonard Rosenberg worked closely with Pollard and stands ready to aid other Sections. ERTS benefits touch people's everyday lives like no other part of the space program. That is why, as Congressman Esch said, "No other space endeavor has received more unanimous and enthusiastic support from the Congress." Every state could use an ERTS symposium. One down, forty-nine to go.

HEARTBREAK OF THE HARD-OF-HEARING LEGITIMATE COMPLAINTS FALL ON DEAF EARS

Mr. PERCY. Mr. President, in previous remarks in the Senate I have pointed up serious problems with the present hearing aid delivery system. Study after study, as well as hundreds of consumer complaints from around this country—which I have now forwarded on to the Federal Trade Commission and the Food and Drug Administration—have attested to deficiencies in the treatment now afforded the Nation's hearing impaired. People within the industry have affirmed that changes are called for. In a significant letter to me, Tom Lantry, of Desert Hearing Aids in Palm Springs, Calif., wrote:

> Your statement about my industry the other day has many of them in an uproar. However, after working nearly 13 years in this business . . . I understand your attitude.
>
> Today, most of the so-called "hard sell" manufacturers and dealers do over 60% of their business by selling a new fitting to their present users. . . . I strongly doubt a true need of many present users for a new one every 2 to 3 years, and I criticize the industry's methods of inducing the second sale. I have done it, and I deeply regret it in many cases.

Mr. Lantry's constructive comments offer keen insight into a number of hearing aid-related problems. I will include his entire letter at the close of my remarks.

Recently, five newspaper articles, two from the Minneapolis Star and three from the Detroit Free Press, have come to my attention. The articles point out many of the problems so often associated with the sale of hearing aids. The Star articles appeared on November 13 and 14, 1972, and were written and carefully researched by Reporters Jim Shoop, David Nimmer, and Gordon Slovut. The articles from the Free Press ran in the February 11, 25, and 26, 1973, editions and were written by Trudy Lieberman after considerable investigative work.

The Star sent two researchers to 12 dealers in the Minneapolis area. One was a 69-year-old woman whose hearing was found to be "essentially normal" by an otologist. She required no hearing aid. The second was a 43-year-old man. This gentleman was diagnosed by the same otologist. He was found to have a substantial hearing loss in his left ear. The loss was due to a condition called otosclerosis—a microscopic growth of the bone which prevents the normal transmission of sound to the inner ear. The condition can be corrected by surgery.

The major findings were as follows:

Eight of twelve hearing aid dealers did not tell the 43-year old man to see a doctor before buying an aid.

Four dealers recommended that he buy two aids, one for each ear, with prices ranging from $500 to $800. But, the researcher suffered no hearing loss in his right ear. The practice of selling two aids has been seriously questioned by Consumer Reports magazine which stated in 1971 that—

> Objective tests have not as yet demonstrated a significant improvement in understanding speech when two aids are used instead of one.

Most dealers displayed plaques proclaiming them to be "certified hearing aid audiologists." Yet, this title was bestowed on them by their own trade association after completion of a 20-week correspondence course.

One salesman told the male researcher after a tone test that the cause of his problem who so "obvious" that he need not give him three other tests. However, he incorrectly diagnosed the gentleman's otosclerosis condition as a "sensorinearal type loss."

The Star article concludes:

> Before a person shops for a hearing aid, he should see a doctor to determine what has caused the hearing loss and whether it can be corrected by medicine or surgery.

The Detroit Free Press reports extensive lobbying efforts by dealers aimed at a price increase in aids procured by the State of Michigan. These hearing aids are supplied to indigent and crippled children. The Michigan Departments of Social Services and of Public Health now pay dealers the net cost of each hearing aid plus a $180 markup of the price paid by the public, whichever is less. The price increase was granted despite the fact that a soon-to-be-released State senate committee report strongly endorsed the existing price formula.

The Free Press also chronicles some particularly distressing examples of dealer misdiagnosis, to wit:

A 21-year-old girl visited an ear specialist after suffering intense pain caused by eardrops given her by a hearing aid dealer. She had been struck in the ear with an open hand and the blow caused a perforation of the eardrum. The dealer gave her eardrops and told her to come back. Said an audiologist:

> The last thing you want to do is put anything in the ear that can drip into the middle ear.

An older woman wore two hearing aids for 2 years. She had a chronic, runny infection in one ear. Yet, the dealer had sold her an aid for the diseased ear and never suggested that she see a medical practitioner.

The Free Press is critical of Michigan's licensing board for hearing aid dealerships. The board took no disciplinary action against any dealer during the first 6 years of its existence. No Michigan hearing aid dealer had his license suspended or revoked. However, the Star reported "numerous" consumer complaints against some dealers.

Courtney Osborn, head of the speech and hearing section of the department of public health, summed up:

> The board is analogous to putting a fox in the henhouse. . . . [It] has been far more interested in the promotion of dealers than consumers.

Inadequacies in the care afforded the hearing-impaired at the dealer level have been brought to public attention by a number of organizations and individuals. Most notably, Ralph Nader's Retired Professional Action Group, the Public Interest Research Groups in both New York and Michigan, and Consumers Union have all issued comprehensive reports.

I personally have written to both the Food and Drug Administration and the Federal Trade Commission urging the two agencies to pinpoint problems with the present hearing aid delivery system and promulgate regulations necessary to protect the consumer. In addition, members of my staff and I have met at considerable length with industry leaders.

With regret, I must report that I have been deeply disappointed with the industry's reaction to so many legitimate complaints on behalf of and by hearing-impaired consumers. Rather than addressing headon some of the serious problems involved in the sale, fitting, and pricing of hearing aids, the industry seems preocccupied with defensive-backbiting and empty challenges.

For instance, in a June 24, 1974, letter to me which I will append to my remarks, Mr. Marvin Pigg, president of the National Hearing Aid Society, expressed a most disturbing attitude of noncooperation, bordering on hostility. Mr. Pigg seems to be more interested in undermining efforts to improve treatment for the hearing-impaired than with taking action to eliminate dealer malpractices.

Similarly, I found interesting a memorandum sent to all Florida hearing aid dealers by the Florida Hearing Aid Society called upon dealers to "sit down today and write PERCY. Encourage your clients to send letters to PERCY and pull from your files as many favorable letters from your clients as you can find. Make photo copies and send these with your letter to PERCY. Keep the originals as

they will be valuable in the future. This man is attacking you and me and our livelihood. Make your letters strong . . . ." The memorandum goes on to state that the writein campaign was a "national" one organized by the Public Affairs Committee of the National Hearing Aid Society. I can only conclude that if the National Hearing Aid Society would expend the time, money, and effort to promote better care and service to the hearing-inpaired, instead of conducting writein campaigns, there might not be the need for a writein in the first place. Customer dissatisfaction could be significantly reduced.

I might add that to me, the truly significant letters received over the past few weeks have been the heartfelt outpourings of hundreds of hearing-impaired citizens from every area and region of the country complaining about consumer abuse, exorbitant prices, or other aspects of the present delivery system. I have transmitted these complaints to the FDA, the FTC, and to the National Hearing Aid Society in the hope that these grievances will be duly considered and corrective measures taken, both in the specific case and the future.

Mr. President, I ask unanimous consent that the several articles and documents I referred to earlier be appended to my remarks in the RECORD. They include a letter to me dated June 13, 1974, from Tom Lantry of Desert Hearing Aids, two articles from the November 13 and 14, 1972, editions of the Minneapolis Star, three articles dated February 11, 25, and 26, 1973, from the Detroit Free Press, a National Hearing Aid Society memorandum, dated June 17, 1974, the letter of June 24, 1974, from Mr. Pigg, and my response to him of June 26, 1974.

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

DESERT HEARING AIDS,
Palm Springs, Calif., June 13, 1974.

Hon. CHARLES PERCY,
U.S. Senator, Senate Office Building, Washington, D.C.

DEAR SENATOR: Your statement about my industry the other day has many of them in an uproar. However, after working nearly 15 years in this business, 10 of them for Beltone dealers, I understand your attitude.

All of my years in this field have been spent in rural and semi-rural areas, including eastern Washington, northern Idaho, western Montana, and Riverside County in California the last 8 years.

For the last 2½ years, I have been running a small business by myself, in Palm Springs. I really mean "by myself". I have no employees, get occasional help from my wife, who also works.

There is a world of difference between my operation, and that of a large so-called "manpower" dealer. It is this difference which concerns me. This type of dealer probably trained most of the people presently working in my field. The degree of technical skill and knowledge is highly various, yet the delivery system which has evolved over the last 50 years, at least in my area, seems to work fairly well. One reason is that, in California, welfare recipients must see a licensed physician in order to get an aid paid for by the state. As to the 75% or more of our customers *not* on welfare, in my experience, lack of money is definitely *not* the reason 6 or 7 out of every 8 people who might benefit from wearing an aid do not do so. As the user of a hearing aid, you should know what the real reasons are. They relate to the affected person's delay in seeking help, for all the many reasons for that delay. I still insist, however, that lack of money is *not* one of those reasons.

Between your recently expressed view, and that of the large manufacturers who appear at Congressional hearings, there must be, it seems to me, a middle ground.

I am concerned about that middle ground for one reason only: since I sold my first Beltone aid, in 1962, near Spokane, Washington, my home town, I have always felt, and still do, that much of what my customer was buying from me, me personally, was as many years of free service on the aid as I could supply, and as they needed. In my present area, this can be considerable, because of the high mean temperatures in which we live here. Of course, I know as well or possibly even better than you, the unusual willingness of any dealer who fitted you, to provide you, personally, with any possible service he could perform, even if it meant a trip to your home to do so. Well, sir, I happen to believe that the little old black lady, in the nursing home in Blythe, Cal., 125 miles from my office, is entitled to just as good and frequent service on her aid, paid for by the state or not, as the wealthiest user I have here in Palm Springs, where I live. And, I firmly believe, anyone in my work, dealer or outside salesman, who does *not* believe this, is cheating his client, at the time of sale, whether or not the buyer knows it.

This, it seems to me is the heart of the whole debate. If the medical or audiological profession takes over my business, who is going to perform pure *service* work, where, and at what cost to existing users? Can the answer to this question be legislated? I am not at all sure of the answer. Like race relations, maybe the answer lies in the hearts of men, as Ike Eisenhower once said. If the small numbers of audiologists in this country, who appear to wish to do so, take my sales incentive away from me, how will those who do not live physically close to their offices get an ear mold re-tubed? Who will use the pipe cleaners and alcohol, or freon lube, to keep the battery tray and volume control clean and loose? Maybe this has never occurred to a non-user, but it must be somewhat evident to you, if you have worn an aid for more than 2 years. These and dozens of other questions had better be answered, I believe, before the present delivery system is even partially destroyed.

As much as the industry feared it, I believe that recent licensing laws, introduced and effective in the majority of the states, are a step in the right direction. All of us had to go back to the textbooks, and prove we had at least some basic information, to get a license. The test in California was tough, as proved by the people with over 20 years' experience who failed it the first time around.

But, even licensing laws, good or bad, still skirt, I believe, the real issue. What is a fair price for a hearing aid? Senator, may I ask, what is a fair price for a pair of bi-focal eyeglasses, for a tonsillectomy, for a stapedectomy, for a 12 cu. ft. plain refrigerator? In the majority of our world, competition has been the main deciding factor. This is even true in the medical profession, in my experience. 15 years ago, a stapedectomy in a famous office in Los Angeles cost nearly $2,000.00. 5 years ago, it got down to about $650.000 in this area, is now nearly $900,00, the last change due to inflation, I believe. The nub of the question then becomes, if I read you correctly the other day, should government now decide the price, who can sell, who can fit, who will service, who will manufacture, and so on.

I readily admit, I have few answers. I agree that it is your function, as a Senator, to question. My only request is that you make as certain as you can that, in your questioning, you find out 2 answers: first, what is best for those who now *wear* a hearing aid, and, second, and far more important, in my view, what can be done to get the huge majority of the hearing impaired who might benefit from an aid, or 2 aids, who now go unaided, to at least look into their problem, from some reliable source.

In my telephone book advertising, a year ago, I urged those reading my ad to *not* contact me, but their family doctor or a specialist, I have never had one person comment to me about that ad. That tells me something, I'm not positive just what, but it means something.

Once a process is begun which noticeably changes how the present manufacturers advertise, price, and distribute their goods, there may be no way back, if the changes hurt the public. Today, most of the so-called "hard sell" manufacturers and dealers do over 60% of their business by selling a new fitting to the present user. Just as you must feel, I strongly doubt a true *need* of many present users for a new one every 2 to 3 years, and I criticize the industrys' methods of inducing the "second sale". I have done it, and I deeply regret it, in many cases. Now that I am my own "boss", I do exactly the opposite, as my present repair business volume can prove. I hope, some day, to see some method found which will put a stop to this practice.

But, if steady sales volume is a necessity for most business, then what can the industry do to maintain sales, if the great majority of their prospects won't go near them, are not even identified right now? The answer is what they are now doing.

Specifically, how much good can be done by the new directional microphone, the new electret microphone, the limiting circuits now available, for the typical user, who is over 70 years of age, may have poor discrimination, other health problems, etc.? These are hard questions, in my own office, with the majority of old people who come to me, most of them by referral from local doctors. My most difficult task is to convince them, *really* convince them, that my fitting is not going to work a miracle, give them back their youth in the hearing dept. Most of them don't want the truth, but I make them face it, anyway. They *must* face it, or they will buy an aid, and, within 30 days, take it off for the last time, and never wear it again. Then, another tragedy is immediately in the making. They will respond to someone else's advertising, still looking for "the Golden Fleece." And, sure enough, they will be contacted, at home probably, by a nice, smiling guy who will convince them he has it for sale. I know. I have a nice smile, and I did it, for 10 years. I'm not ashamed of *most* of the sales I made, but certainly, some.

Finally, I doubt that you, yourself, Senator, will ever read this letter. I hope that whichever of your aides *may* read it will see what I am driving at. It is the gist of over a decade of experience, doing something I have come to love doing. My wife thinks I am something comparable to Ghandi, Jesus Christ, and Ralph Nader, in my work. I smile, but I'm glad she feels that way.

Incidentally, and lastly, as a life-long Democrat, I am extremely interested in who gets your party's nomination in 1976. I may have to vote for your candidate. Last time, I had to pass completely, a judgment recently vindicated. Good luck, God willing, I hope you make it.

Sincerely,

TOM R. LANTRY,
Licensed Hearing Aid Designer (and proud of it).

[From the Minneapolis Star, Nov. 13, 1972]

NEED A HEARING AID? SEE A DOCTOR

(NOTE.—This is another of The Minneapolis Star's articles dealing with consumer-related subjects. It was compiled and written by The Star's consumer team of Jim Shoop and David Nimmer, and medical and science writer, Gordon Slovut. A related article will appear in tomorrow's Star.)

A white-haired 69-year-old woman walks into the Beltone Hearing Aid Center at 512 Nicollet Mall and says she'd like her hearing tested.

"I don't have an aid," she says, "and I hope I don't have a problem. I've been having a little trouble hearing and I thought the best thing I could do is come in and have it checked."

She is led into a small room by a woman in a pantsuit who begins what is known in the trade as a hearing evaluation, in which her responses to a series of tones transmitted through headphones by an electronic device, called an audiometer, are tested.

When the test is over, the woman in the pantsuit says, "You have a slight hearing loss in both your ears and your left ear is a little bit worse than your right.

"You have trouble with children, you have trouble with radio, and you don't always get the punch line of jokes," she says. "Am I right? You wouldn't be able to hear fire and we do hear fire. The crackle. So it is a safety problem on top of being a physical problem. I would definitely fit that left ear."

Earlier she had remarked that while a hearing aid can sometimes bring faulty hearing "back up, we couldn't restore your hearing, you understand that."

She recommends a model priced at $379 and tells the customer that if worn regularly, it will help "stimulate" damaged nerve ends in her ear that are "withering and dying."

Later the 69-year-old woman was examined by a leading Minneapolis otologist, a medical doctor specializing in ear problems. He said her hearing was "essentially normal" and didn't require a hearing aid.

"She has a very slight high-tone loss in her left ear but certainly not enough to cause any problems. Her hearing is so darn good she certainly doesn't need amplification (a hearing aid)," he said.

What about stimulating damaged nerve ends?

"Nonsense," the doctor said. "That's quackery, pure and simple."

The elderly woman was not an ordinary hearing aid customer but one of two persons we sent to 12 Minneapolis-area hearing-aid dealers to find out what kind of services they offer and how well they perform them. All offered free hearing evaluations.

The second person was a 43-year-old man who was also tested by the same doctor and found to have a substantial hearing loss in his left ear. His condition is called otosclerosis, an abnormal, microscopic growth of bone which prevents the normal transmission of sound to the inner ear.

The condition can be corrected by an operation which our specialist said has up to a 98-percent success record. A hearing aid might also help a person with the disease, he said, but most people prefer natural hearing to the inconvenience and somewhat tinny sound of a hearing aid.

Medical doctors generally agree that before a person shops for a hearing aid, he should see a doctor to determine what has caused the hearing loss and whether it can be corrected by medicine or surgery.

Bert Dunlap, president of the Minnesota Hearing Aid Society, the industry trade association, and Robert Tischbein, secretary, said in an interview that every ethical dealer, when he suspects a medical problem, will send a customer to a doctor.

"There may be a brain tumor. There may be other things that I'm not qualified to evaluate," Tischbein said. "This is the best way to protect the public, and me, frankly."

Here's what we found in our survey:

Eight of the 12 hearing-aid dealers didn't tell our 43-year-old man to see a doctor before buying an aid.

Three dealers recommended one aid for his bad left ear, quoting prices from $235 to $375.

Four recommended that he buy two aids, one for each ear, at prices ranging from $500 to $800.

One, Dayton's Optical and Hearing Aid department in downtown Minneapolis, said his hearing loss wasn't serious and that a hearing aid might confuse him more than it would do him any good.

Tischbein, manager of Dahlberg Hearing Aid Center, 831 Marquette Av., was the only dealer to tell both of our subjects to see a doctor before he would administer a test or sell them a hearing aid.

Nine of the 12 dealers correctly told our 69-year-old woman that her hearing was good and didn't require an aid.

Two—Beltone and the Sears Brookdale store—suggested she buy a low-power aid for her left ear. The Sears salesman said the regular price was $219 but it was being offered as a sales item for $169.

On the other hand, the same Sears salesman was one of the four dealers to tell our 43-year-old man to see a doctor before buying an aid.

The variation in our results lends support to the view that a doctor is in a better position than a hearing-aid dealer to determine whether you have a medical problem.

There are many causes of hearing loss. Some, such as impacted ear wax, can be eliminated easily. Others, such as chronic infections of the sinuses, tonsils and adenoids, or fluid in the middle ear, can be treated by medicine or surgery.

An otologist (ear specialist) can also tell whether hearing loss is caused by damaged nerve centers in the inner ear, a problem which cannot be cured but may be helped by a hearing aid.

Should that be the case, he may refer you to a clinical audiologist, who is not a doctor but is professionally trained in methods of evaluating hearing problems and in prescribing which hearing aid is best for you.

He must have a certificate of competence from the American Speech and Hearing Association, the professional body governing the field audiology.

To get it, the audiologist must have a master's degree or the equivalent of 60 semester hours of postgraduate study, 275 hours of clinical experience while in college, and nine months of full-time employment in a hearing clinic after his postgraduate study.

Hearing-aid dealers have no medical school training, but some of the terminology and apparatus they use lend a kind of medical mystique to the business.

Most dealers display plaques proclaiming them to be "certified hearing aid audiologists," a title bestowed by the National Hearing Aid Society, the industry trade association.

To qualify, a dealer must take the Society's 20-week correspondence course, pass a four-hour examination and have two years' experience.

Dunlap, head of the St. Paul Beltone office, said he runs an additional three-month training program of his own and his employees attend company courses ranging from three days to a week.

There are no training or licensing requirements under Minnesota law. Thirty states do have licensing laws.

Most dealers are careful to say they are not doctors and cannot diagnose. But some in our survey made a stab at it anyway and turned out to be wrong.

A salesman at Telex Hearing Aid Center, 1127 Nicollet Av., told our 43-year-old man after a tone test that the cause of his problem was so "obvious" he didn't need to give three other tests.

"It's a sensorineural-type loss. It's a nerve deafness," the salesman said. The real cause, according to our doctor, is otosclerosis which can be cured by an operation.

A few hearing-aid dealers did ask if he had seen a doctor, but when he said no, they didn't suggest that he see one and proceeded to try to sell him a hearing aid.

The saleswoman at Beltone, for example, asked if he had been to a doctor and said her tests indicated he might have a conductive loss, the kind that can sometimes be cured with an operation.

Instead of suggesting a doctor's visit first, she recommended a hearing aid for each ear, called a binaural fitting, and estimated the cost at $800 or $850.

Our consulting audiologist recommended an aid only for his left ear to start with because the man hasn't had his hearing amplified before.

Whether a person may eventually benefit from two hearing aids depends on the individual. Some will, others won't, our consulant said. In any case, even with a single aid, a 30-day trial period is recommended to make sure a person can adapt to wearing an aid.

Consumers Union, a nationally recognized product-testing organization, said in a 1971 issue of its Consumer Reports magazine that "objective tests have not as yet demonstrated a significant improvement in understanding speech when two aids are used instead of one."

A lawsuit filed by the Minnesota attorney general's office accuses one of the dealers in our survey, Minnesota Hearing Aid Center Inc., Minneapolis, of fraud, false pretense and misrepresentation in its sales practices.

The suit alleges, in part, that the firm has "represented a need for and sold two hearing-aid devices ranging in price from $600 to $1,200 to persons for whom only one such device was needed" or none was needed.

In its contract with hearing-aid dealers, the Hennepin County Welfare Board prohibits the sale of two aids to a client unless a doctor or clinical audiologist specifically recommends them.

The county also restricts the dealer from selling any aid until the client has first been to a doctor or audiologist and has a prescription, accompanied by the results of the hearing tests.

Critics also have cited the unusually high cost of hearing aids, which, in technical complexity, are not essentially different from a transistor radio.

Hennepin County sets a maximum allowable limit of $275 on the amount it will pay for a standard single aid. The county pays less than that for most aids it buys.

Seven of the 12 prices quoted to us in our survey exceeded that amount. Two firms quoted prices ranging from $259 to $400. Three others gave prices of $169, $235 and $250.

Consumers Union quoted one manufacturer as saying the components of his aid cost approximately $30. The magazine then estimated the cost of labor, advertising and promotion at an additional $45, for a total of $75.

According to recent complaints filed by the Federal Trade Commission against several hearing-aid manufacturers, including Beltone and Dahlberg, the average price of a hearing aid to a dealer is about $100. The average retail price is about $350, the complaints said.

Dunlap and Tischbein don't disagree with such figures, but contend there are additional

costs to be taken into account, such as the dealer's time and his office and equipment expenses.

[From the Minneapolis Star, Nov. 14, 1972]

SEE AN EAR MAN; IT MIGHT BE WAX

Some types of hearing loss can be cured—or lessened—with medicine or surgery.

Some types can be helped only with a hearing aid.

For some types, lipreading is the best hope.

Where should you go if you think you have a hearing problem?

"Straight to an ear man," says Dr. A. B. Rosenfield, director of special services for the Minnesota Health Department.

By "ear man" he means a physician who specializes in problems of the ear, usually called an otologist or otolaryngologist.

Why a specialist?

"Because he can find out the cause of your hearing loss," Dr. Rosenfield said. "It could simply be wax impacted in your ear, an infection, chronic otitis, nerve disease, a tumor, otosclerosis, any of many possible causes."

Your family doctor can refer you to an ear specialist, Rosenfield said.

For people who want to start directly with an ear specialist, there is the referral service of the Hennepin County Medical Society.

Thomas Hoban, executive director of the society, said callers are given the names of three ear specialists.

Why not start with a hearing-aid dealer? They advertise free hearing checkups.

Said Dr. John Lawrow, a Minneapolis specialist in internal medicine:

"Some types of hearing loss can be corrected by means other than a hearing aid. All a hearing aid dealer can do is sell you equipment which can amplify sound.

"Starting with a hearing-aid dealer is like going to a muffler dealer for a noise in the bottom of your car.

"You're almost certain to drive out with a new muffler. You may be surprised in a couple of days when one of your wheels goes rolling down the street.

"If you go first to a hearing-aid dealer for your hearing problem, you're likely to walk out with a hearing aid. He (the salesman) could very well miss a diagnosis—they aren't trained to diagnose anyway."

In his own practice, Lawrow said, he refers patients with hearing problems directly to an ear specialist.

Hoban, whose language is less colorful than Lawrow's, makes a similar point: "It's important to separate the person selling the equipment from the actual evaluation of the need for a hearing aid or the decision about the specific type of aid needed."

One of Hoban's relatives had a hearing problem. She began with an otologist, who said a hearing aid might help, and referred her to the Minnesota Regional Hearing Center, 2525 E. Franklin Av., an operation supervised by the otolaryngology department of the University of Minnesota.

An audiologist—a person with graduate training (in this case a doctorate) and experience in checking hearing problems evaluated Hoban's relative's hearing loss, tried a number of hearing aids on her and then gave her a written recommendation of the aids he considered to be best suited for her.

The recommendation doesn't have the weight of a drug prescription, but it can be used in dealing with a hearing-aid dealer. Inclusion of more than one recommendation gives a person a way of shopping for price.

A complete workup at the Minnesota Regional Hearing Center costs less than $40. That's a fraction of the charge for a hearing aid. The so-called audiogram—a check of how a person hears various tones—is only a small part of the audiological workup.

Ear specialists can help some hearing problems without ever referring a patient to an audiologist, most of whom work closely with doctors. Some work in the offices of otologists.

In the case of the 43-year-old man The Star sent to hearing-aid dealers, the medical specialist suggested surgery. The man has otosclerosis, a stiffening of the stapes, a bone in the middle ear. That affliction, fairly common among adults in their 30s and 40s, partially stops the transmission of sound to the inner ear and the brain.

The operation to correct the problem is called a stapedectomy. The surgeon, working with intense magnification, removes the stapes and the overgrowth of bone which blocks transmission of sound. He replaces the stapes with a stainless steel or synthetic artificial stapes.

Cost of the operation, if no complications develop, ranges from $450 to $600 in the Twin Cities area, according to a survey.

Hospitalization normally lasts two or three days.

The 43-year-old man has a group Blue Cross-MII policy. A spokesman for Blue Cross said that in this case the man would have no out-of-pocket costs if the surgical charge were $500.

"At most," the Blue Cross spokesman said, "we think he'd have to pay $40. The rest would be covered—doctor, hospital, the works."

There is no guarantee, of course, that surgery would be successful. Medical literature, however, cites success rates for stapedectomies in properly selected patients at 90 percent or higher.

Some of the other operations which help people who are hard of hearing:

Fenestration—opening of a window through the bony wall of the middle ear to the inner ear to let sound vibrations reach the hearing organ.

Myingoplasty—replacement of a punctured ear drum with a flap of skin.

Removal of infected tonsils and adenoids, or surgical treatment of sinusitis or mastoiditis.

The major types of hearing loss are:

Conduction deafness, which may be inherited (as in otosclerosis) or caused by chronic infections of the sinuses, tonsils and adenoids, infection or fluid in the middle ear, inflammation of the eustachian tube connecting the throat and middle ear, a perforated eardrum or chronic mastoiditis. In conduction deafness, the nerve endings may be in good condition but sound can't get to them because the problems prevent sound waves from getting through the middle ear to the inner ear. Aids usually are effective.

Nerve deafness, in which the sound is transmitted intact to the hearing nerve but there is degeneration of the organ of hearing, the nerve that transmits impulses to the brain, or of the brain itself. Sometimes aids help, sometimes they don't.

Mixed deafness, which is a combination of conductive and nerve deafness.

A legislative proposal by the Minnesota Speech and Hearing Association, the organization of audiologists (certified after graduate training and a sort of paid internship) and speech pathologists, might affect hearing aid salesmen's activities even though it wouldn't regulate them.

Eleanor Swanson, legislative chairman of the association, said the proposal is to enact strict requirements for qualification as an audiologist and to define exactly what an audiologist can do.

If an unqualified person were to perform the tasks of an audiologist, she said, "that person could be prosecuted."

There would be no requirement in the proposed law, as it now stands, to require that hearing-aid dealers use audiologists, she added.

In fact, she said, the present code of the association prevents audiologists from selling hearing aids.

How many persons are hard of hearing is uncertain. Estimates range from 10 to 20 percent of all Americans.

As the proportion of elderly persons in the United States increases, the number of persons with hearing problems is expected to increase.

[From the Detroit Free Press, Feb. 11, 1973]

STATE WILL PAY MORE FOR HEARING AIDS

(By Trudy Lieberman)

The State of Michigan will pay more for hearing aids for the indigent and crippled children, mostly because of the lobbying efforts by hearing aid dealers.

The Department of Social Services and the Department of Public Health will soon pay Michigan dealers the net cost of each hearing and plus a $180 markup or else the price paid by the public, whichever is less.

The vocational rehabilitation division of the Department of Education is expected to follow suit.

Until last May the Department of Public Health, which buys about 700 hearing aids each year, had been paying the market price minus a discount. Since May it has paid the net cost plus $125—a figure many dealers thought was too little. Hearing aids have cost the department about $200,000 a year.

Gottlieb Bieri, a Saginaw hearing aid dealer who is president of the Michigan Hearing Aid Society, declined to discuss the matter on the telephone with the Free Press.

The society is a group of 114 licensed dealers and salesmen.

In May, when the new cost formula took effect, the society encouraged its members not to participate in the state program.

Only 52 of the 183 licensed dealers provide hearing aids to the crippled children's program in the Public Health Department and in some parts of the state, such as Ingham and Saginaw counties, there are no providers.

The hearing aid dealers hired Emil Lockwood, a former state Senate Republican leader and now a powerful Lansing lobbyist, to work for them to get more money from the state.

Sheldon Segal, a Detroit area hearing aid dealer, said: "A great majority (of the money collected by hearing aid dealers for their political activities) has been used for the crippled children's controversy. It has paid off or seems to be paying off."

The Department of Public Health resisted attempts to pay more for aids but the Department of Social Services apparently has not.

Social Services will soon begin buying hearing aids under the medicaid program. Because the payment mechanisms for medicaid and crippled children's services are the same, both Social Services and Public Health must use the same formula for reimbursing dealers.

Social Services Director Bernard Houston wrote to the Public Health Department in late January saying that his department had decided to pay for hearing aids on the basis of cost plus $180 or the normal charge to the public.

Carbon copies of Houston's letter were sent to Lockwood and to Sen. Charles Zollar, R-Benton Harbor, chairman of the Senate Appropriations Committee, and Sen. Jerome Hart, D-Saginaw, a committee member.

Public Health Director Maurice Reizen said: "We acquiesced."

Houston's letter culminated a series of meetings between state departments, members of the Legislature and hearing aid dealers. Some of the meetings were held in the offices of Hart and Zollar.

"The pressure this office has been under has been unbelievable," said an official of the Public Health Department. "When Lockwood pulled us into Zollar's office, the message was clear."

In May, 1971, the Senate formed a special committee to investigate prices paid by the

state for hearing aids. The committee, headed by Sen. Charles Youngblood, D-Detroit, has not released its report.

The Free Press learned, however, that the committee is recommending that the system currently used by Public Health "be continued and adopted by all state departments and agencies involved in purchasing hearing aids for residents of the state."

The committee's draft report says that "the information contained in the hearing aid dealer cost study prepared by the office of the auditor general indicates such a formula is equitable."

[From the Detroit Free Press, Feb. 25, 1973]

HEARING AID SALES STILL UNCONTROLLED DESPITE STATE LAW

(By Trudy Lieberman)

(Thousands of Michigan residents with hearing problems turn for help every year to hearing aid dealers. Unfortunately, some dealers are ill equipped to help the aurally handicapped and untrained to make decisions that border on medicine. Free Press reporter Trudy Lieberman, in the first of two articles, examines complaints made about some dealers by state consumers.)

In 1966 the Michigan Legislature passed a law licensing hearing aid dealers in order to protect the public from deceptive, incompetent and high pressure practices.

But seven years later, it is still possible for a dealer to:

Engage in misleading and untruthful advertising.

Obtain leads for hearing aid sales by circumventing the licensing act provisions that prohibit door-to-door canvassing.

Imply that he is associated with the medical profession.

Sell hearing aids to persons who should be medically treated, who don't need them or can't use them.

And it is still possible for people to buy hearing aids through the mail with no recourse if the transaction goes sour.

"They (the dealers) are doing the same things they were before except that they are legal now," asserts Larry Paul, an audiologist in private practice with a group of physicians.

Dealers, many of whom oppose licensing, believe the law has been good to them, giving them a professional and legal status that is recognized by the state.

"The dealers association has taken legislation and turned it into professionalizing legislation. Dealers are professionals because of legislation, not because of training," says Courtney Osborn, chief of the hearing and speech section of the state Department of Health.

It is the matter of training and professionalism that is under question. Although there are many dealers who consider the interests of their customers, there is enough evidence to suggest that many people are being fitted with aids without having seen a doctor first or when they didn't need them.

Consider these documented cases, related by visits to a Detroit hearing clinic.

A 21-year-old girl recently visited an ear specialist after suffering intense pain caused by ear drops given her by a hearing aid dealer. She had been struck in the ear with an open hand and the blow caused a perforation of the ear drum and a small hearing loss. The dealer gave her ear drops and told her to come back.

"The last thing you want to do is put anything in the ear that can drip into the middle ear (the middle part of the hearing mechanism)," says an audiologist associated with the ear specialist who examined the girl

An older woman had been wearing two hearing aids for two ears although she had a chronic, runny infection in one ear. The dealer had put an aid into a diseased ear and never suggested to the woman she have the ear examined.

An older woman was wearing two aids after being told by a dealer she had a 20 percent loss in both ears and two aids would prevent her loss from becoming worse.

Complaining that the aids were too noisy, she visited a hearing clinic where the audiologist found she had a mild, high frequency loss outside the normal speech range. Her hearing otherwise was normal. She was told the aids were not necessary and in fact could be detrimental because they were bringing in excessive noises over long periods.

A 66-year-old man had been told by a hearing aid salesman he needed two aids costing $683. The man went to a hearing clinic for a second opinion and was told he had a moderate hearing loss in one ear and no measurable hearing in the other ear.

He was referred to a doctor who cleared up an infection in one of his ears. A hearing aid on a useless ear would have been a waste of money and an aid in the other ear would have compounded his medical problem.

To become a hearing aid dealer, a person must be at least 18 years old, a high school graduate, maintain a place of business in the state, pass a written examination administered by the state board of hearing aid dealers and serve two years as a licensed salesman under the supervision of a licensed dealer.

Of the 182 dealers in the state, 150 received licenses under the "grandfather clause" of the licensing act. This means that they did not have to pass any state examination to get a license.

Recent changes in the licensing law give the licensing board authority to accept the successful completion of a home study course instead of a written examination. The study course is conducted by the National Hearing Aid Society, a trade organization of dealers.

Says Horace Bradshaw, deputy director of the Michigan Department of Licensing and Regulation, under whose jurisdiction hearing aid dealers fall: "I support the concept of a correspondence course. It gives everyone a chance to qualify for licensing. It does prepare an individual to enter the field but it doesn't mean he's the best qualified.

"There are those licensed dealers who can give a competent examination and those who can't."

The Michigan Department of Licensing and Regulation reports that the bulk of the complaints it receives against hearing aid dealers are from people who say the aid they bought isn't doing the job they thought it would do.

"I think there are people who are fitted with aids who shouldn't have them. Many times the dealer has tried to adjust the aid and this hasn't done the job," Bradshaw said. Dealers say that sometimes people just don't learn to operate their aids properly.

Says Joe Swearingen, a Detroit hearing aid dealer: "They (dealers) are a very competent and dedicated group of people."

Some dealers, however, appeared to be defensive when contacted by the Free Press and some insisted on taping interviews. The president of the Michigan Hearing Aid Society, Gottlieb Bieri of Saginaw, declined to answer questions on the telephone.

Said Sheldon Segal, owner of Nu-Phonics Inc.: "We try to make people feel psychologically sound. We try to tell them it's not a shame to wear an aid. The dealer does this better than anyone."

Dealers point out that many of them have degrees in such fields as education and engineering and that they keep up with the hearing field by reading trade journals and attending meetings and workshops sponsored by trade associations and manufacturers.

They point to their certification program as another way of learning about the field.

"Our certification program is designed to encourage dealers to achieve a certain level of competency," says Lila Johnson, administrative assistant for the National Hearing Aid Society. "We are careful who we certify in the first place so it will not be necessary to withdraw it later."

Hearing aid dealers do not like to call themselves dealers and salesmen, although that is how they are licensed. They avoid those terms by using a variety of names such as state licensed consultant, hearing aid consultant, hearing specialist, certified audiologist or certified hearing aid audiologist, a term which means they have passed the basic requirements for certification by the National Hearing Aid Society.

"I am not a dealer," says Segal. "It (the word) has the connotation of a used car dealer. I am not a doctor and I am not a dealer with just a product. I am selling him (the customer) a service until he buys an aid."

The variety of names used by dealers plus a tendency for some dealers and their receptionists to wear white uniforms, often associated by many people with the medical profession, has caused some confusion among consumers.

"We ask people we see if they've seen a specialist and they say 'yes'. We ask further and it turns out the specialist was their friendly hearing aid dealer," says Isabelle Nichols, associate director of the Michigan Association for Better Hearing and Speech, a statewide United Fund organization.

While some dealers say that a person should see a doctor before visiting a dealer, such recommendations aren't always made to the hearing aid customer, who answers an ad or who walks in off the street.

Consider the case of Len Shafer, a 25-year-old who has normal hearing in one ear and a mild conductive hearing loss in the other. A conductive loss is one in which the sound has difficulty reaching the hearing mechanism of the inner ear. Shafer is under a doctor's care and is not a candidate for a hearing aid, according to the audiologist at Wayne State University who examined him.

Yet when he visited a Dearborn hearing aid dealer, the dealer performed only one of four recommended tests, told Shafer he had a mild hearing loss and tried to sell him an aid for $322.

The dealer urged him to have an earmold impression taken for both ears so that he could shift the aid from ear to ear. The dealer said wearing an aid on both ears from time to time would stimulate the nerve endings so they would be properly exercised. He was not told to see a doctor.

Another dealer Shafer visited performed the proper tests that revealed a potential medical problem but did not recommend he see a physician. Instead, the dealer told him to wear a hat in winter to keep the blood vesels around his ear warm.

The case of Helen Brown is similar. Mrs. Brown has a severe hearing loss in one ear and reasonably good hearing in the other. She has had four operations in the bad ear.

The salesman she visited in a Detroit dealership performed only one hearing test on her and told her she had a "damp" ear. The salesman tried to sell her a $452 aid and tell her about the financial arrangements she could make.

Mrs. Brown was not told to see a doctor and she reported most of the discussion was about financing.

"Most dealers know the basic tests," says Edward Hardick, an associate professor of audiology at Wayne State University. "Whether or not they do them depends on their motivation at the time. If they want to sell an aid, they forget all that stuff."

Critics of hearing aid dealers say that pressure to sell an aid often conflicts with the best interests of the hard-of-hearing person. According to a Federal Trade Commission attorney, some dealers have a quota of aids

to sell and are put on notice if they aren't selling enough. "Salesmen will hang an aid on anybody whether they need one or not to make a quota," the FTC attorney said.

R. H. Brenaman of Beltone Detroit says: "We do have a quota but it's not mandatory. We made 100 percent of our quota last year. Detroit's a good town."

Although some dealers get customers referred from hearing and speech centers, they still use a variety of methods to obtain sales leads. Some are legal, and some just skirt the edge of legality.

One dealer pays customers $10 for each prospect who buys an aid.

Other dealers may give away batteries to customers if they refer prospects to the dealer.

The hearings aid dealers' licensing law prohibits door-to-door canvassing for prospects but there appear to be ways to get around this prohibition.

One woman reported that a salesman called her saying he was the Tri-County Social Services bureau and was taking a survey. He wanted to know if there were any hard-of-hearing people in her family. She later learned she had referred a friend to a hearing aid dealer.

Another woman said she was contacted by a dealer after she filled out a coupon for a non-working model of an aid to be worn in the privacy of her own home. She found that the dealer had already set up an appointment for her to have her hearing tested.

"Almost all ads have a coupon gimmick to get a name," says Joe Blanton of the Public Health Department's hearing and speech section.

There have also been reports of salesmen contacting people who have had ear surgery and trying to sell them aids a few weeks after their surgery.

"That's becoming a very common problem," says Larry Paul, an audiologist in private practice. "It's more common than we had realized. They are buying off someone on the hospital staff."

[From the Detroit Free Press, Feb. 26, 1973]

STATE BOARD FAVORING HEARING AID DEALERS—CONSUMER COMPLAINTS SHRUGGED OFF

(By Trudy Lieberman)

("Just because you have a licensing act doesn't mean you're going to get rid of the scoundrels in a hurry.")

No Michigan hearing aid dealer has ever lost his license for engaging in unethical conduct or unfair sales practices. No dealer has even had his license suspended.

And yet there have been numerous consumer complaints of questionable sales methods on the part of some dealers.

Why hasn't the regulatory board created by the 1966 licensing act for hearing aid dealers acted on the complaints?

"That board is analogous to putting a fox in the henhouse," said Courtney Osborn, head of the speech and hearing section of the Department of Public Health. "The board has been far more interested in promoting dealers than consumers."

The seven-man regulatory board is appointed by the governor. There are no dealers on it because the Michigan Constitution says that state licensing boards must not be composed of the people licensed.

There is an advisory group to the board made up of audiologists and medical doctors but they don't come to its meetings very often.

"Just because you have a licensing act doesn't mean you're going to get rid of the scoundrels in a hurry," said Horace Bradshaw, deputy director of the Department of Licensing and Regulation, under whose jurisdiction the board falls. "It takes time to set up rules and write examinations."

The board has been meeting since December, 1967.

A state official who is familiar with the licensing boards said that most boards are concerned with their profession first and consumers second and the newer boards are less concerned with the consumer. The hearing aid board is one of the newer boards, he said.

The Department of Licensing and Regulation has taken little initiative in investigating the practices of hearing aid dealers.

"You hear a lot of things (about sales practices) but I'm not involved," Bradshaw said. Bradshaw is deputy director for licensing.

Asked why he shouldn't be involved, Bradshaw said: "That's a good question, I could get out of that one by saying talk to the deputy director for regulation. Yes, I guess I should be aware of sales techniques.

"We do not investigate on our own," he said. "Most of the time we react (to complaints). We don't have the horses to go out and look for problems. We don't create trouble. We try to work with all people."

Although Bradshaw admitted that hearing aids "aren't my cup of tea," he will be assuming more control of the regulation of hearing aid dealers. An attorney general's opinion has relegated the licensing board to advisory status, meaning it can only recommend and suggest. The director of the department or a deputy will have direct control over the dealers.

Since the board has been in operation, there have been about 100 complaints from consumers and dealers. The board itself has initiated only seven.

It is difficult to learn what happened to these complaints because the files are secret. Neither the press nor the public can find out how the complaints were investigated or disposed of.

Licensing officials say that about half of the complaints were resolved in informal conferences between the board and the dealers.

"I would say we've been pretty effective," said licensing board president Fred Heinemann, "particularly in the minor infraction area."

When asked specifically which minor infractions, he said: "I can't think of any right now." Later Heinemann recalled that the board had found some dealers using the wrong audiometric equipment but said this problem had been corrected.

However, both Heinemann and board member Joe Swearingen said the board has not been effective in dealing with misleading and deceptive advertising and they blame this ineffectiveness on the attorney general's office, which acts as legal counsel for the board.

Heinemann estimated that there may have been 150 to 200 unethical ads turned over to the attorney general's office. "We were told there was little that could be done unless an aid was sold (as a result of the ad). We reached the point where it became useless to turn in advertising we considered unethical."

Swearingen said: "We have not received co-operation from the attorney general's office. We have been grossly mistreated as far as the attorney general is concerned."

An assistant attorney general had interpreted the licensing law to mean that the licensing department had to submit proof that an aid was sold as the result of a misleading ad before building a case against a dealer. However, the department has apparently done little to secure this proof or follow the advice of the attorney general's office.

For instance:

In May, 1971, the misleading advertising of a dealer came to the attention of the licensing board. Nearly a year later, in February, 1972, the board requested the dealer to appear at an informal hearing. Correspondence between the dealer's attorney and the board's ethics committee followed and no hearing was held.

In May, 1972, the board asked the attorney general's office what courses of action were open. In a memo to deputy licensing director Bradshaw, an assistant attorney general said that an investigator could try to buy an aid from the dealer based on his ad or the board could request the attorney general to issue a cease and desist order under the deceptive advertising statute under which it is not necessary to prove an aid was sold.

There was no response from the board. In July, the attorney general's office sent another memo asking what the board had decided to do. Again no response.

However, an entry in the meeting minutes of the licensing board reveals that the board closed the complaint based on the memos from the attorney general's office.

In another case where the attorney general's office told the board it could request a cease and desist order, the board failed to act. Instead, four months later the board called in the dealer for an informal conference. The dealer didn't come to the conference so the board scheduled no further meetings with him. The complaint was made part of his file.

Board president Heinemann said if the board could have used the deceptive advertising law, he did not recall being told this. The law has never been used against hearing aid advertising although it has been on the books since 1966.

"We're not getting sufficient information to support a violation," said Mrs. Gay Hardy, an assistant attorney general assigned to the Department of Licensing and Regulation. "Maybe we hear from them in four to six months from the time we request more information."

In one case, the board sent to the attorney general a memo requesting action on the license of a dealer who had taken money from consumers without delivering the aids.

"All I got was a memo saying that the dealer had left the country," said the assistant attorney general in charge of the case. "I got no statements from people the dealer took money from, no contracts, checks or any proof they gave him money."

The requests for additional information caused a three-month delay.

Another time the correspondence between the board, the investigatory staff and the attorney general dragged on so long that the hearing aid dealer died before a resolution of the case could be made.

[From the Detroit Free Press, Feb. 26, 1973]

IF YOU HAVE A PROBLEM

Here's what to do if you suspect you have a hearing problem:

Visit a doctor specializing in ear disorders. He will determine whether the disorder should be corrected by surgery or medicine.

Go to a hearing or audiological clinic. A professional there, with a master's degree in hearing and speech pathology, will decide whether you should be wearing an aid. Such an examination is mandatory for children under 16 before they can be fitted with an aid.

If you do purchase an aid without professional advice, try to obtain it on a one-month trial basis.

Don't buy an aid through the mail without first having your hearing tested.

If you sign a contract in your home for an aid, you have three business days in which to cancel the contract if you find that the aid is unsatisfactory.

FLORIDA HEARING AID SOCIETY,
Tampa, Fla., June 17, 1974.

DEAR FLORIDA HEARING AID SPECIALIST: You have no doubt read or heard about U.S. Sen-

ator Percy's (R. Ill.) attack on hearing aid dealers and specialists. Please read the full text of his June 10 news release, enclosed. Also the release the same day by the President of the National Hearing Aid Society.

After reading Percy's attack you will want to do something about it—and you can!

Please sit down today and write Percy. Tell him exactly how you feel. Send copies to your Senators Gurney and Chiles and your Congressman. All three Senators can be addressed—New Senate Office Bldg., Washington, D.C. 20510.

Here are some suggested points to make in your letter to Percy. However, please write whatever you wish.

1. Excellent, convenient service (including home service) provided now.

2. High degree of competency required by certification and licensing.

3. Total value received. Since price gouging is charged, total value to the consumer should be stressed in terms of original cost and total services and investment of dealer.

4. Programs by dealers to encourage hearing-impaired to seek assistance.

5. State legislative bodies are more responsive and are more competent to deal with this situation without resorting to the vast bureaucracies of the Federal Trade Commission and the Federal Drug Administration. Through licensing and their own agencies States are fully able to cope with any problems that may arise.

6. The attack by Senator Percy has the effect of attacking the entire hearing aid retail industry although, abuses, if any, are attributable to only a small number.

Important: Encourage your clients to send letters to Percy and cull from your office files as many favorable letters from your clients as you can find. Make photo copies and send these with your letter to Percy. Keep the originals as they will be very valuable in the future.

This write-in campaign is a National one. It is organized and directed by the Public Affairs Committee (PAC) of the National Hearing Aid Society.

Whether or not you are a member of the Florida Hearing Aid Society makes no difference. This man is attacking you and me and our livelihood. I urge you to write your letter *today*. Make it strong and tell him exactly how you feel about his unfair attack. The longer you wait the less effective our campaign will be. Please *do it now*.

Sincerely,

FLOYD C. SMITH.

NATIONAL HEARING AID SOCIETY,
Detroit, Mich., June 24, 1974.

Hon. CHARLES H. PERCY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR PERCY: It is difficult to assess the total damage that has been sustained by the millions of hearing-impaired and by the thousands of dedicated and reputable hearing aid specialists from your attacks on the industry in public comments, news releases, and Congressional Record remarks.

You did acknowledge in your letter of June 13, 1974, to our National Executive Secretary Anthony DiRocco that you had "no intent to disrupt the present delivery system . . . nor castigate the vast majority of hearing aid dealers." But such comments are lost when compared with earlier broad statements about "files bulging with correspondence from Americans who have been badly served."

You also state in your letter to our Society that we share the primary objectives of improved care for the hard of hearing and eliminating consumer abuse on the part of the minority. As you, yourself, commented in hearings before the Subcommittee on Consumer Interests of the Elderly, "People procrastinate and delay for days, weeks, months, years in buying hearing aids." Yet the national headlines you achieved destroys the confidence of hearing aid users in their instruments and in their dealers, and it gives many foot-dragging potential hearing aid candidates yet another excuse for delay.

There is not an industry in the country that is without some consumer complaints, and ours is no exception. If you really want to do something about problems in the retail hearing aid industry, we invite you to begin by working with us. Then, if you find we can't do the job to your satisfaction, we will agree that you will be justified in attacking us in the press, urging FTC and FDA action, and passing legislation.

Therefore, we now challenge you to produce those files "building with correspondence" about hearing aids you claim to have received from dissatisfied users. We are particularly interested in the complaints you received prior to June 10 that inspired you to launch your attack.

You actually have complaints "bulging" from your files, we want to get them resolved as soon as possible. This has been our national policy for more than 10 years, and it will continue to be our policy. We believe this is the one true solution to the many questions you raise. After all, if a consumer is dissatisfied and seeks your help, it is a disservice to him to hold his letter exclusively for "evidence" rather than turning it over to an agency or organization that can help him gain satisfaction.

Based on our experience, we doubt that your "bulging" files contain many valid complaints that cannot be resolved. Nor can we find evidence of unresolvable complaints "bulging" at other government agencies. For example, a recent count of consumer complaints received by the Office of Consumer Affairs, HEW, shows that of 4,914 complaints, only 16 involved hearing aids. (Cameras, films and projectors were the topic of 28 complaints.)

We have dealer organizations in nearly every state that have been very successful in resolving complaints to the customer's satisfaction. In the few instances where a complaint cannot be resolved, the consumer is urged to turn his problem over to his state licensing board. The licensing board may then hold hearings and—if necessary—punish a recalcitrant dealer by withdrawing his business license.

Of course, your home state of Illinois is one of only 11 states which have no hearing aid specialist licensing law. Therefore, we can assume that any complaints you have from your constituents are from frustrated hearing aid users who have no legal recourse through a state agency.

For this reason, we urge you to let the National Hearing Aid Society work on these letters of complaint from your Illinois constituents through the Illinois Hearing Aid Dealers Association.

We pledge that we will look into each complaint conscientiously, make every effort to resolve the problem, and will give you a written report on each. We believe this can be of great service to everyone involved.

If you are truly interested in helping the hearing-impaired, as we are, you can help best by providing us with the complaints in your files so that we can resolve them. Just call Richard F. Fralick, our Washington representative, at 528-0362. He'll pick up whatever you have, and we'll do the rest.

Sincerely yours,

MARVIN H. PIGG, *President.*

U.S. SENATE,
WASHINGTON, D.C., *June 26, 1974.*

Mr. MARVIN H. PIGG,
President, National Hearing Aid Society,
Colorado Springs, Colo.

DEAR MR. PIGG: I have your letter of June 24, 1974, which I find personally disturbing because of the hostile and uncooperative attitude which you express, on behalf of the National Hearing Aid Society. I believe that you and your trade association would better serve the estimated 20 million hearing-impaired people in this country if instead of issuing empty challenges, you were to address yourself head-on to some of the serious problems involved in the sale, fitting, and pricing of hearing aids to persons who are in such dire need of the vital benefits which they can and do offer.

If the National Hearing Aid Society is truly interested in working toward that end, then I would suggest you begin to deal concretely with some of the very legitimate and agonizing concerns that are expressed in the several hundred letters which I have received, and which I am attaching herewith, as you requested. I urge that you also proceed to obtain directly, as I did, the many grievance letters from users and former users of aids presently in the files of the Food and Drug Administration, Federal Trade Commission, Virginia Knauer's Office of Consumer Affairs, and other government units, and consider those along with the complaints I am attaching. The letters to me indicate that the abuses in this area are even more aggravated than I first thought. There is clearly an undercurrent of dissatisfaction on the part of many present and former users of hearing aids which remains unattended to by the industry to the detriment of the industry and the very persons who are in most need of help.

I am also forwarding copies of these complaints to the Food and Drug Administration and the Federal Trade Commission, both agencies having jurisdiction in this area, so they can be aware of the kinds of deeply-felt grievances being expressed by hard of hearing citizens all around the country, including users in those states which have licensing boards.

It is my hope that, upon receipt of these complaints, the National Hearing Aid Society will reassess its intransigence and move from a position of defensive backbiting to one of positive and mutual cooperation with the government agencies concerned. And too, with critics of the status quo whose honest intent is to improve conditions in the industry in a manner which will inspire confidence on the part of the great number of hearing-impaired Americans who need assistance but will not seek help for fear of being ripped off.

I further believe that there needs to be a cooperative effort on the part of all of us in order to secure and redirect funds, resources, and expertise available within the federal establishment toward basic research into the problems of the inner ear which underlie acute hearing loss.

Sincerely,

CHARLES H. PERCY,
U.S. Senator.

CONGRESSIONAL PAY

Mr. McGEE. Mr. President, lest any Senator believes that public sentiment all around the country is decidedly against any equitable increases in the salaries of the Government's higher ranking officers, including Members of Congress, I would like to call attention to an editorial which was published this past spring in the San Antonio Express of San Antonio, Tex.

The editor of the Express recognizes full well that what he called timing and controls put Congress into an intolerable position on the latest pay proposal to come before it from the President. But he also recognizes that periodic salary adjustments, particularly in a time of raging inflation, are merited. I ask unan-

imous consent that the editorial titled "Congressional Pay Tiff Suggests a Better System Ought To Be Tried" be printed in the RECORD.

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

[From the San Antonio Express, Mar. 4, 1974]

CONGRESSIONAL PAY TIFF SUGGESTS A BETTER SYSTEM OUGHT TO BE TRIED

Timing and controls put the Congress into a politically intolerable position on the latest pay raise round.

The Congress had passed a law several years ago whereby each four years the President would review salaries of members of Congress, federal judges and agency officials. The law was designed to provide a way, without a lot of log-rolling, to review the pay scales, as all well-regulated businesses do.

President Nixon had been tardy in making his review. When it finally came, the wage-price guidelines were fixed at 5.5 per cent annually, inflation was raging and an election was coming.

The law required congressional veto of the raises to keep them from being automatic. And the opponents of raises started their campaign.

Congress and legislatures are placed in the position of having to deal with political sharp-shooters on the issue. That shouldn't be. Perhaps the proposal for Texas' new constitution would be better: a salary commission free of legislative dependency should set the salaries.

Legislators at all levels, who are forced to set their own salaries, are abused under the system. They are expected to be on call around the clock, keep their hands out of the treasury, do all kinds of special favors for constituents, protect the public interest and serve in a gold fish bowl job for small fees.

True, members of Congress earn more than most of us but in terms of top jobs in private business, they work for quite modest sums. The misdeeds of a few tarnish the deeds of those who really try to do the country a decent job. It's probably too idealistic to hope for, but politicians ought to be honored—and to deserve it. A salary review every four years is a reasonable plan.

THE PROBLEM OF FINANCIAL REFORM

Mr. TOWER. Mr. President, I was very much impressed by the remarks today by the distinguished Senator from New Hampshire, Mr. MCINTYRE, to the American Bankers Association's National Governmental Affairs Conference.

As ranking minority member of the Senate Banking Committee, I am pleased with the type of bipartisan leadership which Senator MCINTYRE has assumed as chairman of the Senate Subcommittee on Financial Institutions to press for orderly, constructive, and comprehensive reform. His remarks today summarize well the concerns which prompt an ever greater need to address the problem of financial reform in an expeditious manner.

Mr. President, I ask unanimous consent that these remarks be printed in the RECORD.

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

REMARKS BY U.S. SENATOR THOMAS J. MCINTYRE AT THE AMERICAN BANKERS ASSOCIATION NATIONAL GOVERNMENTAL AFFAIRS CONFERENCE/SYMPOSIUM ON INFLATION, WASHINGTON, D.C., JULY 17, 1974

This morning I'd like to concentrate my remarks on the crisis in confidence in our financial institutions, and to point up what I consider a most important first step toward resolving that crisis.

First of all, it should be obvious to everyone that the ravages of double digit inflation and a 12 percent prime rate have created a most difficult climate for the orderly operations of financial institutions.

While I don't intend to recite the litany of concerns about the general economy, I would like to recite a passage from a recent editorial in the New York Times. I quote—"As a result of the worst inflation this country has ever experienced in peacetime—and of the almost exclusive reliance on restrictive monetary policy to check that inflation—interest rates have gone through the roof and the *financial solvency of many institutions, both private and public, is now threatened.*"

Every day I come across reports like this about the crisis of confidence which surrounds the financial system in this country.

As Chairman of the Senate Subcommittee on Financial Institutions, I can tell you I am deeply concerned.

What is to be done to prevent the spreading crisis of consumer confidence from spilling over into concern about the continuing strength and viability of our financial institutions?

For the past year and a half, I have been advocating that the only way out of the recurring crises which threaten the stability of our financial institutions is through a comprehensive package of structural reform. Sometimes I get the feeling that I'm the only one left committed to this principle, but has it ever been more apparent than right now that financial reform is needed, much less inevitable?

Banking laws and regulations passed primarily to bring this country out of the Depression no longer provide a reasonable framework to deal with the problems of today. New economic forces are coming into play all the time.

And, as witnessed in so many areas today, events have a way of accelerating, almost overnight . . . accelerating to the point of threatening or even overturning long-established trends, traditions, and institutions.

In the financial community we have seen, within a relatively short period of time, a number of developments which, when taken together, have serious ramifications in their potential impact on consumer confidence.

All one has to do is catalogue what is being reported daily in the press—bank stocks on a sharp decline; municipal bond offerings being cancelled; a bone-dry mortgage market, at least at affordable interest rates; and questionable bank management practices in an atmosphere of inordinately tight financial pressures.

And what about new developments to which the financial system must yet respond? What, for example, will be the impact on our financial structure as billions and billions of petrodollars reflow to this country, for the most part into short term obligations callable on very short notice?

What will be the impact of continuing and increasing activity of banks and bank holding companies in non-bank-related areas? What about the prospect of increased competition from foreign banks seeking to gain a foothold in the United States?

I submit that I do not know all the answers, but I also submit that there are a lot of others in the same boat.

With all the Federal regulatory apparatus available to oversee the safety, soundness, and stability of our financial system, why do we seem to be finding new chinks in our armor every day? In this regard, believe me, I am very much aware of the fact that Congress is, in the truest sense, the Federal financial regulator of last resort.

Yet, since 1965, Congress has been dealing with the problems of the financial community on a piecemeal, issue-by-issue basis. Our legislative efforts are very analogous to the see-saw we used to play on as kids. If the weight on one side outbalanced that on the other, something had to be done to restore equilibrium. Quite frankly, the Federal government, for the past ten years, has been doing much the same with financial structure and regulation.

Year after year, one segment of our financial system would come to Congress and point out an imbalance in the competitive structure of the industry. Through legislation, Congress would then attempt to restore equilibrium. But no sooner would we act than another group within the industry would come along and point out that the action just taken, rather than restoring equilibrium, had provided yet another unforeseen imbalance.

So what we have had in recent years is a continuing reaction to correct one imbalance, both of which were caused by changing economic conditions.

The danger in continuing this piecemeal approach is obvious. The financial industry has become and will continue to be so completely controlled by government regulation that inefficient and outmoded practices are perpetuated without any recognition of the value of innovation and competition to the strength of the industry and to the benefit of the public at large.

Now we're confronted with yet another type of imbalance. This time it isn't the competitive structure of financial institutions themselves which we are being called upon to consider. Now the alarms are sounding on the external threat of disintermediation to financial institutions under Regulation Q, particularly thrift institutions, from the intense competition for funds by borrowers in the capital markets.

In the eight years that Regulation Q has been in effect industrywide, it has become increasingly obvious that, even among financial institutions themselves, Reg Q has not eliminated disintermediation but has, in and of itself, become a major contributing factor toward this phenomenon.

It has also become clear that a principal result of Regulation Q is that small consumer savers are not afforded a competitive rate of return on their investment. So our piecemeal legislative approach has resulted in substantial subsidy from small savers to large borrowers.

As a matter of public policy, this country must insure an adequate supply of money for housing at a reasonable price. At the same time, the small consumer saver deserves, at the very least, not to be discriminated against on the return he can get for his savings.

Nobody takes issue with either of these objectives. It is just that, for the moment, we are told, one must give way to the other lest the survival of a substantial number of savings institutions be seriously threatened.

We are witnessing, then, yet another precipitous assault on the stability of a substantial segment of our financial structure.

In the past, each segment of the financial community has been engaged in defending its own special interests with little recognition for orderly, constructive, comprehensive reform. Is it possible that we now have the force of events which will compel such recognition?

Financial reform is inevitable. I submit that it may already be underway. The only

question in my mind is how we shall have it. Will we be out in front? . . . or chasing frantically behind to keep as few pieces from falling by the wayside as possible?

I just don't want to see any more band-aid, ad hoc, knee-jerk, pressure-packed approaches. We've had enough sloppiness already.

But to end as I began, there is more at stake now than just a rational approach to the problem. Given the present warnings, public confidence is in the balance. I think it should be readily apparent that, in the eyes of the public, there is a substantial difference between the safety, soundness and stability of corporate America versus the safety, soundness and stability of financial America.

Having already spent a great deal of time and effort on financial reform, I have been given a lot of advice: be practical, do what is feasible, reap the benefits of the educational process, but forget about coming up with anything very substantial in a comprehensive form.

Ladies and Gentlemen, the choice may not be mine. And if there is any doubt about my own commitment to seeing this process through in a responsible manner, then let me lay that doubt to rest today.

Thank you very much.

BUDGET CUT OF $10 BILLION RECOMMENDED BY BURNS

Mr. McGOVERN. Mr. President, the Chairman of the Federal Reserve Board, Mr. Arthur F. Burns, has called on President Nixon and Congress to cut Federal spending by $10 billion as a means of reducing inflation. I agree with this analysis. Indeed, I have long argued for a $10 billion cut in excessive military spending—the largest cost in the Federal budget.

The budget for fiscal year 1975 is presently estimated to be $305 billion, and some administration officials had previously shown some willingness to reduce this by $5 billion, to $300 billion. Mr. Burns has now upped the ante.

Unfortunately, some members of the administration do not go along with this "new" talk of budget cutting. Budget Director Roy Ash said talk of budget cuts in 1975 was like "baying at the moon." Treasury Secretary Simon is more optimistic about a balanced budget in 1976, but he also feels that there is some "controllable spending" which could be cut now. He has mentioned "overfunded" programs such as school lunch, school milk, and the food stamp program.

While I am in complete agreement with the necessity to reduce Federal spending, it is inconceivable to me that programs which are directly offsetting some of the effects of this ruinous inflation for some of our most affected groups would be singled out as candidates for reduction or elimination.

I also take sharp exception to the statement by Mr. Burns that the economy "is not being starved for money and credit." One need only examine the depression condition in the housing industry to realize that this sector of the economy is particularly hard hit by record high interest rates. And we have learned in the process—as Mr. Burns admits—that high interest rates are no answer to today's inflation. Indeed, they make it worse.

Finally, Mr. Simon suggests that "we are still paying for many of the bold new initiatives that have been proposed over the last 20 or 30 years." I agree with Mr. Simon, and I urge him to examine just a few of the extravagant military programs. The $10 billion budget cut which Mr. Burns is looking for is there—and much more.

Mr. President, I ask unanimous consent that an article on this subject by Peter Milius in the July 16, 1974 issue of the Washington Post be printed in the RECORD.

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

[From the Washington Post, July 16, 1974]

TEN BILLION DOLLAR BUDGET CUT RECOMMENDED BY BURNS

(By Peter Milius)

Federal Reserve Board Chairman Arthur F. Burns called on President Nixon and Congress yesterday to cut federal spending $10 billion this fiscal year as a means of holding down inflation.

Even then, Burns warned the House Ways and Means Committee, he could not promise his board would ease up on its tight money policy—restricting the growth of the money supply to drive up interest rates in an effort to discourage borrowing, dampen demand and drive down prices.

Tight money and a tight budget together mean slower economic growth, Burns freely conceded, and these in turn mean that unemployment will be higher than otherwise, and family incomes lower.

But continuing inflation would be even worse, he said. "A period of slow growth is needed," he told the committee, which is considering changes in the tax laws.

Burns said the economy's present sluggishness probably will continue for some months. Actual output of goods and services—known as "real" gross national product—probably rose somewhat in the second quarter from the depressed level of the first, he said, but no vibrant recovery is near. The Commerce Department will publish preliminary GNP totals Thursday.

The Federal Reserve Board reported yesterday that industrial production in June remained unchanged from the May level. It rose at annual rate of 1.3 per cent in the second quarter, but declined at a 6.6 per cent rate in the first, and is 0.1 per cent below its level of a year ago.

The board's industrial production index covers about a third of the GNP.

Burns and the White House have been warning for months that the only way to deal with inflation is to put the economy through the wringer of tight money slowdown. Burns' testimony yesterday was a reaffirmation of his determination to see that policy through.

Burns, however, has felt that not enough is being done to hold down spending, and that the reserve board is thus having to do more than it should on the monetary side.

The $10 billion he wants cut from the budget is twice what the White House has set as a goal. The recommended spending total for fiscal 1975, which began July 1, is about $305 billion, with a projected deficit of $11.4 billion.

The President has said he hopes to lower the recommended spending total to $300 billion. That would still leave a deficit of about $6 billion, however, and Burns said yesterday that with inflation as high as it is the government ought to be running a surplus instead.

Director Roy L. Ash of the Office of Management and Budget has said he is not sure the $300 billion target can be reached, nor that reducing spending $5 billion will have much effect on the inflation rate.

In San Clemente, Calif., White House press secretary Ronald L. Ziegler said yesterday that the deficit in fiscal 1975 might turn out to be only about $5 billion even if spending is not cut, because revenues are rising beyond earlier projections.

The increased revenues are in part caused by inflation. As it bloats wages and profits, it also bloats taxes.

Burns, while deploring the damage done by high interest rates, also said the economy "is not being starved for money and credit," and that the money supply still is growing faster than the reserve board would like.

He said that most of the "special factors" that helped produce the inflation of the last two years are subsiding now—the worldwide boom, devaluation of the dollar, last winter's lifting of oil prices—but noted that wages are now rising sharply and may take their place in putting upward pressure on prices.

LAKE SUPERIOR: A PRIVATE DUMP?

Mr. PERCY. Mr. President, for over 2 years I have been following with interest the case of the United States and the States of Minnesota, Wisconsin, and Michigan against Reserve Mining Co. It is of great concern to me and to the people of the Great Lakes States that Reserve Mining's plant at Silver Bay, Minn., has continued to dump 67,000 tons of asbestos-polluting taconite waste every day into the formerly clear waters of Lake Superior.

Throughout the progress of the lawsuit and trial, the company has never seen fit to voluntarily cease the dumping. Apparently it has not occurred to Reserve that the sight of the ghastly taconite waste pouring into the beautiful waters of the "Big Lake" is an outrageous affront to environmental decency.

Nor has it seemingly disturbed Reserve that asbestos fibers, a known source of cancer in humans, are present in both the water and the air surrounding the plant and have been traced to the taconite dumping. In the face of evidence of a serious potential hazard to the shoreline communities which draw their drinking water from the lake, it is impossible for me to support the company's insistence on continuing the dumping without voluntarily developing an alternate procedure more in the public interest.

The district court judge in the case found that the discharge into the air and water "substantially endangers the health" of the residents of lakeside communities including the cities of Duluth, Minn., and Superior, Wis., and ordered a suspension of the plant's operations.

The district court stated in its findings that:

Defendants have the economic and engineering capability to carry out an on land disposal system that satisfies the health and environmental considerations raised. For reasons unknown to this Court they have chosen not to implement such a plan.

Subsequently, the Eighth Circuit Court of Appeals stayed the lower court's suspension order and required Reserve to produce within 70 days a plan for on-

land disposal of the taconite waste. Meanwhile, the dumping goes on, and if the appeals court permits it, Reserve intends to keep on dumping all during the 3 to 5 years required for construction of an on-land disposal system.

The court of appeals acted only to stay the district court order to immediately shut down the plant, and did not rule on the "merits" of the case. However, in summarizing its findings, the appeals court opined that on appeal the Government is likely to prevail on the environmental question, while Reserve is likely to prevail on the health risk question.

The States of Minnesota, Wisconsin, and Michigan asked the Supreme Court to lift the stay, while the Federal Government decided not to go to the Supreme Court over this issue. I understand that this was a tactical decision on the part of the Justice Department, and that a later appeal on the merits of the case is not precluded. The decision seems wise in retrospect since the Supreme Court on July 10 declined to reinstate the district court order.

On the question of the possible hazard to human health, the distinct philosophies have emerged. The philosophy of the district court is that even the possibility that thousands of cases of cancer in humans may appear after 20 to 30 years of exposure to asbestos fibers in the air and drinking water is far too great a risk for society to bear. In contrast, the philosophy of the appeals court is that shutting down a plant is too serious a step to take without proof positive that the asbestos fibers in and around Lake Superior are indeed causing cancer.

I can only say that as between the two, many Americans subscribe to the Federal district court's philosophy. The potential hazard to the health of those upper Midwest residents in their judgment is far too dangerous to trifle with.

Even if the health issue could be disregarded, the obvious degradation of the environment from this noxious discharge would be enough to warrant its cessation.

I believe that the Federal district court's findings and conclusions represent an excellent summary of this case. If any of his basic findings on the merits of the case are overturned at the appeals court level, then I would certainly urge the Attorney General to appeal to the Supreme Court. This is one of the clearest tests I know of whether our antipollution laws are adequate to protect the public health and environment.

The decision of the Federal district court was printed in the RECORD of May 6, 1974, on page 13331, at the request of my distinguished colleague from Michigan, Senator GRIFFIN.

Mr. President, I ask that a New York Times editorial of July 7, 1974, and two Washington Post articles dated July 6, and July 8, 1974, on the Reserve Mining case be printed in the RECORD.

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

[From the New York Times, July 7, 1974]

SUPERIOR, PRIVATE DUMP?

Federal District Court Judge Miles W. Lord continues to set an example of social conscience in the case of the Reserve Mining Company—while the company, in contrast, continues to put profits above the public health and the environment of three states.

After five and a half years of fierce obstructionism, Reserve Mining, which is jointly owned by Republic Steel Corporation and Armco Steel Corporation, at last faces a flat ban on its use of Lake Superior as a private dump for its iron ore wastes. Scientific experts, the Environmental Protection Agency and the states of Minnesota, Michigan and Wisconsin have pressed for such a ban partly on the ground that the 67,000 tons of tailings discharged daily into the lake contain asbestos fibers which some medical authorities believe capable of causing cancer and other diseases.

Appealing Judge Lord's injunction to close the plant last April, Reserve Mining was granted a stay by the Eighth Circuit Court on condition that the contending parties return to the District Court to work out a plan for ending "as quickly as feasible" the pollution of what was the purest freshwater lake in the world. While the higher court questioned the certainty of the health hazard, it affirmed that the original permission for the discharge had been "a monumental environmental mistake."

In the face of a judicial record like that, it is appalling that the company should want—much less be allowed—to continue its depredations even temporarily. Yet its lawyers' first line of argument at the new hearings was that the unsatisfactory compromise it proposed in place of the state's more stringent plan would cost less money. It is to the credit of Judge Lord that he brought them back to the issue. That issue, he said, was ecology, not economics. It is only regrettable that it should have taken nearly six years for the point to be driven home.

THREE STATES ASK COURT TO CLOSE MINING FIRM

(By George C. Wilson)

Minnesota and two other states asked the Supreme Court yesterday to shut down the Reserve Mining Co. which is now dumping 67,000 tons of waste into Lake Superior every day.

The petition—written by Minnesota state attorneys and signed by their Michigan and Wisconsin counterparts along with a lawyer for private environmental groups—was filed with Associate Justice Harry A. Blackmun.

Blackmun, a Minnesotan, oversees legal matters in the Eighth Judicial Circuit where an appeals court on April 22 lifted a shutdown order against Reserve issued by U.S. District Court Judge Miles W. Lord.

The Justice Department which filed the suit in the first place, rejected the requests of the Environmental Protection Agency and the Council on Environmental Quality to appeal the case to the Supreme Court.

In lifting the District Court order, the Eighth U.S. Circuit Court of Appeals went beyond the narrow question of whether Reserve could keep dumping waste into Lake Superior until the appeals court held a full-dress hearing on Lord's decision.

A three-member panel from the appeals court, in deciding to let Reserve resume operations, expressed itelf on what constitutes a health risk in terms that have alarmed environmental lawyers.

"Although Reserve's discharges represent a possible medical danger," the panel wrote, "they have not in this case been proved to amount to a health hazard" and thus the plant should be allowed to keep dumping into Lake Superior.

In yesterday's petition to the Supreme Court, Minnesota said that Reserve discharges into Lake Superior "large quantities of asbestos fibers which are a known human carcinogen." Judge Lord had found the discharge to be an unacceptable health risk.

"The issue involved in this case is one of unique and exceptional importance," said the Minnesota petition, "and the consequences of continuing the stay could well be disastrous. What is being threatened by the stay order is human life.

"Perhaps the most fundamental and important error of the court of appeals," continued the petition, "is that it seriously misconstrued the law when it forecast that appellees would not prevail on the merits of the health issue.

"This prediction reflects a basic misconception of what type of proof is necessary in order to prove the existence of a hazard to public health sufficient to warrant an injunctive remedy," the states argued.

The appeals court standard of requiring proof that "people are going to die" before a polluter is stopped "conflicts directly with long-standing public policy," the petition said.

Rather than let such appeals court interpretations stand, the states asked Blackmun to impose Lord's shutdown order until the case has been argued on its merits before the appeals court.

At the moment, Minnesota and Reserve are arguing over where the waste should be dumped on land if discharge into the lake is stopped. The next hearing on this question is Wednesday in St. Paul before Lord, who has been directed by the appeals court to help work out a settlement.

[From Washington Post, July 8, 1974]

ENVIRONMENTAL BACKFIRE

WINNERS SEEN LOSERS IN MINING CASE

(By George C. Wilson)

ST. PAUL, MINN.—The environmental movement now stands to be the loser when it "wins" the biggest pollution suit ever filed by the federal government.

Adding to this irony, the congressman who authorized one of the nation's first clean water acts has cleared the way for the public to pay for filtering out the waste the polluter being sued has been dumping into Lake Superior for the last 17 years.

And, as far as state officials here can divine, the federal government has no intention of interfering with this course of events—leaving the states to take over the last stages of the battle.

These are the new developments in United States of America vs. Reserve Mining Co.—a suit the Justice Department filed with trepidation on Feb. 17, 1972. The trial itself will mark its first anniversary Aug. 1—a year-long, often uncomfortable confrontation between the Nixon administration and some of its political friends in the steel industry.

Reserve is owned by the Armco and Republic steel companies. The Reserve plant, on the edge of Lake Superior at Silver Bay, Minn., grinds up iron ore for those two companies and flushes the waste sand and gravel out the back door and into the lake.

The daily load of waste—called taconite tailings—is 67,000 tons. Besides polluting this cleanest of the Great Lakes, the Environmental Protection Agency discovered after the suit was filed that there were fibers in the lake and air which witnesses linked to Reserve's discharges. Worse than anything, medical witnesses testified that these fibers were the same kind that caused cancer and thus endangered the 200,000 people who drink water from the lake and breathe air polluted by the plant.

As the first anniversary of the trial approaches, it appears that state and federal officials will indeed reach their original goal of stopping Reserve from dumping tons of tailings into Lake Superior.

But, in getting there—as one attorney deeply involved in the case against Reserve put it—public health law has been made that, if left uncontradicted, "will be a far greater environmental disaster for the country than all this polluting of Lake Superior over the years."

The states of Minnesota, Michigan and

Wisconsin agree they face a Pyrrhic victory after all their work against Reserve. That is why they went to the Supreme Court last Friday. They do not want the Eighth Circuit Court of Appeals interpretation of what constitutes a public health risk to go into the lawbooks as the last word in this hallmark case. This would handicap other antipollution efforts throughout the United States, they agree.

Last month, the Justice Department refused to take the case to the Supreme Court—rebuffing the states and the federal Council on Environmental Quality and Environmental Protection Agency which recommended an appeal.

Byron E. Starns and James M. Schoessler of the Minnesota attorney general's office wrote for the three states and allied environmental groups last Friday's petition to Associate Justice Harry A. Blackmun of the Supreme Court. Said their petition:

"The legal issue involved in the determination of the amount of proof required to establish the existence of a health hazard is one of great importance to the future of nuisance and abatement cases . . .

"Perhaps the most fundamental and important error of the court of appeals is that it seriously misconstrued the law when it forecast" that those suing Reserve would not be able to prove the health hazard of the company's waste was dangerous enough to justify shutting down the plant.

"The court of appeals has put itself into the position of saying that unless it can be documented to a scientific certainty that people are going to die in the future, or unless actual deaths have already occurred, law and equity will not grant relief from a health hazard."

Instead of looking at pollution of the air and water from the viewpoint of "when in doubt cut it out," critics contend the appeals court had opted for requiring a corpse. This, they contend, is not the rightful standard for civil cases where "probability" of violation, not the "beyond a reasonable doubt" of criminal law, applies.

State and federal officials who have been fighting Reserve said in interviews that local, state and federal officials everywhere will be hard pressed under that interpretation to control potentially dangerous industrial wastes going tnto the air and water.

Despite those consequences, these same lawyers are pessimistic about the Supreme Court ruling before the Reserve case is settled under an agreement fostered by that same appeals court that wrote the controversial public health language.

That appeals court, in an order issued June 5, directed Reserve and the parties suing the company to go back to U.S. District Court and work out within 70 days an agreement for dumping the waste on land instead of into the lake as quickly as feasible.

Reserve has offered to dump on land. The remaining issues are how soon the company stops flushing the 67,000 tons of discarded sand and gravel into the lake every day and where on land it will deposit this waste.

Thus, it looks like this most costly and longest environmental case will be settled under something akin to a consent decree by mid-August unless the Supreme Court does the unexpected and steps in.

The case, despite 20,000 pages of testimony, leaves a mysterious trail of politics and unanswered questions dating back to 1972 when the Environmental Protection Agency asked the Justice Department to take on the steel industry.

Uncomfortable for the Nixon administration back in 1972, the industry had powerful contributors working for the Republican Party including C. William Verity Jr., head of Armco, and chairman of the Ohio campaign committee. It raised—according to Verity—between $50,000 and $55,000 for GOP candidates in the state.

It was also Verity whom Chairman Henry S. Reuss (D-Wis.) of the House Conservation Subcommittee had assailed earlier for "seeking and apparently obtaining White House intervention" in a federal court order issued in 1971 to stop Armco waste dumping in the Houston ship channel.

John N. Mitchell, as Attorney General in 1972, had to decide whether to name Armco and Republic as defendants in the pollution suit urged upon the Justice Department by the Environmental Protection Agency.

Thomas H. Truitt, who in 1972 was director of EPA's legal support services, recalled the administration's faint-heartedness.

There was "no question" about EPA's interest in getting Armco and Republic named as defendants along with Reserve, Truitt said in a telephone interview last week. "I know," said the former EPA legal officer, "because I was doing the lobbying for it. I was told the recommendation was on Mitchell's desk."

Mitchell, who later in 1972 left the Justice Department to temporarily head the President's re-election committee, rejected EPA's recommendation. Only Reserve Mining Co. was named as the polluter in the Justice Department suit filed on Feb. 17, 1972.

Armco and Republic tried to stay in the background after the trial started last Aug. 1, but a feisty federal judge—the John J. Sirica of this hallmark pollution case—decided to pull them in as defendants.

In explaining why he did so, 54-year-old Judge Miles W. Lord—a former Golden Gloves boxer—pulled no punches. Said Lord in a memo dated May 11, 1974:

"Armco and Republic each own 50 per cent of the outstanding stock of Reserve. The policy making body of Reserve, its board of directors, is made up of 11 individuals; five from Armco, five from Republic and one from Reserve. The Reserve board in reality makes no decisions. Armco and Republic jointly agree on policy decisions which are then rubber-stamped by the Reserve board . . .

"If the Reserve corporate entity were respected," Lord continued, "Armco and Republic would be free to take the benefits of these violations without being accountable for any fines, penalties or liabilities that attach to such conduct . . . It is quite clear to this court that Reserve is a mere instrumentality or agent of Armco and Republic which is being used to shield the parent companies from the consequences of the pollution of Lake Superior and the ambient air . . ."

So, under Lord's ruling the federal government took on the steel industry.

One court exhibit showed that Reserve spent $5.85 million on legal help and other services from 1969 through April, 1974, to justify its disposal methods and plans.

After hearing the medical pro and con in his court room for nine months, Lord—once a poor youth who knew mining first-hand and had paid his way through college by working at such jobs as janitor and cat skinner—ruled against the industry.

He said the risk of people getting cancer from the fibers was too great to take; that Reserve had to close its plant until it found a way to dump its waste on land like other taconite companies do.

In the shut-down order of April 20 and a May 11 memo elaborating on it, Lord seemed to have given environmentalists one of their biggest victories against a polluter. His two memos were a combination of righteous indignation and public health philosophy. If allowed to stand as the last word, Lord's interpretations would have made it much easier for local, state and federal officials to win pollution cases.

Some of Lord's findings:

"The evidence in the case indicates that the daily profit in the operation at Reserve is in the neighborhood of $60,000 per day. Each year that the plant remains in operation, there is a 90 per cent return on owners' (Armco and Republic) equity. In other words, for every dollar Armco and Republic initially invested in Reserve, they got back 90 cents each year the plant remains in operation.

"Defendants have the economic and engineering capability to carry out an on-land disposal system that satisfies the health and environmental considerations raised. For reasons unknown to this court they have chosen not to implement such a plan.

"In essence, they have decided to continue exposing thousands daily to a substantial health risk in order to maintain the current profitability of the present operation and delay the capital outlay needed to institute modifications. . . ."

Reserve witnesses, in testifying that disposing of its waste on land rather than in Lake Superior had been determined as infeasible, showed "bad faith" because no land disposal plans were in corporate files, Lord wrote.

"After listening to testimony for over nine months, the court has formed the opinion that the credibility of the defendants collectively in this case is seriously lacking. They have misrepresented matters to the court, they have produced studies and reports with obvious built-in bias they have been particularly evasive when officers and agents were cross-examined."

Lord, in discussing the public health question in his May 11 memo, made these points:

"At all times" Reserve's discharges into the air from its smoke stacks and into the lake via sluices behind the plant "adds millions of asbestos fibers to every quart of water drunk by every citizen of Duluth, Two Harbors, Beaver Bay and Superior (Wis.) at every time of the year. . . ."

"The evidence clearly indicates that the ingestion of amphiboles and asbestos fibers creates a hazard to human health."

In the light of those and other findings, Lord said, "the determinative issue is a simple one: a commercial industry is daily exposing thousands of people to significant quantities of a known human carcinogen and plans to continue doing so unless halted by this court."

Lord thus ordered Reserve shutdown as of 12:01 a.m. April 21, 1974. The steel companies immediately sought to get the shutdown order lifted. A three-member panel of the Eighth Circuit Court of Appeals, after a hurried hearing on April 22, lifted Lord's order until it had a chance to assess his full opinion.

On May 15, the appeals panel held a more leisurely hearing in St. Louis on the question of whether Reserve should be allowed to operate until it held a full hearing on the merits of the case. The appeals court decided on June 5 to allow Reserve to keep discharging into the lake for at least 70 more days, ordering the contesting parties to work on a cleanup plan under Lord's auspices in the meantime.

Reserve has proposed dumping its waste on land about a mile northeast of its Silver Bay plant at a place called Palisade Creek. Minnesota officials oppose that site, asserting the waste must be dumped farther inland to make sure the dangerous fibers do not drain back into the lake and return to the water supply.

Also, Reserve has said it would keep dumping into the lake another three years to give the company time to ready the land disposal site.

State officials here who have been fighting Reserve for years predict the company will go just far enough to satisfy the Eighth Circuit Court of Appeals. They add that the Washington hierarchy of Justice Department is tired of fighting the steel companies and wants a settlement—much to the distress of some of its lower ranking lawyers.

The defendants have contended all along that Reserve's discharges have not been proven as endangering the health of people

who drink water from Lake Superior and breathe air near the plant.

The Eighth Circuit Court, in agreeing with the steel companies, set down these guidelines on June 5 for proving a polluter was endangering the public health:

Even if the number of asbestos and asbestos-like fibers in the air and water could be measured accurately, the three-member appeals court panel said, "there remains vast uncertainty as to the medical consequences of low levels of exposure to asbestos fibers." In other words, are the people around Lake Superior taking in enough fibers along with their air and water to cause cancer?

"The results of the tissue study" (which indicated deceased Duluth residents who had been drinking water out of Lake Superior for the last 15 years had no more asbestos in their tissues than Houston residents whose water was free of such fibers), the court said, "must weigh heavily against the assessment of any demonstrated hazard to health. We think it is clear that the tissue study raises a major obstacle to the proof that ingestion of Duluth water is hazardous . . .

". . . Although Reserve's discharges represent a possible medical danger, they have not in this case been proven to amount to a health hazard. The discharges may or may not result in detrimental health effects, but, for the present, that is simply unknown. The relevant legal question is thus, what manner of judicial cognizance may be taken of the unknown?"

"We do not think," said the appeals panel, "that a bare risk of the unknown can amount to proof in this case. Plaintiffs have failed to prove that a demonstrable health hazard exists. This failure, we hasten to add, is not reflective of any weakness which it is within their power to cure, but rather, given the current state of medical and scientific knowledge, plaintiffs' case is based only on medical hypothesis and is simply beyond proof.

"We believe that Judge Lord carried his analysis one step beyond the evidence. Since testimony clearly established that an assessment of the risk was made impossible by the absence of medical knowledge, Judge Lord apparently took the position that all uncertainties should be resolved in favor of health safety.

"Since the appropriate threshold level for safe toleration of fibers was unknown, the district court tipped the balance in favor of attempting to protect against the unknown and simply assumed that Reserve's discharge presents a health hazard.

"In doing so," the appeals court continued, "he disregarded the tissue studies of his own experts which provided direct evidence to the contrary.

"If we are correct in our conclusion that evidence does not exist in the record on which to find Reserve's discharges to be unsafe, the district court's determination to resolve all doubts in favor of health safety represents a legislative policy judgment, not a judicial one.

"We emphasize that our evaluation rests not on any view that the discharge exposes North Shore residents to no risk," the appeals court said, "but rather on the view that, given the evidence, no substantial danger has been or could be proven. It cannot be said, other than as a matter of conjecture, that the discharges will result in any higher incidence of disease than that experienced by a general public not similarly exposed.

"Although we are sympathetic to the uncertainties facing the residents of the North Shore, we are a court of law, governed by rules of proof, and unknowns may not be substituted for proof of a demonstrable hazard to the public health."

The appeals court, in contrast to Lord's ruling, thus rejected the warnings of the government's key witness on the health hazard—Dr. Irving J. Selikoff, director of the Environmental Sciences Laboratory and an acknowledged expert on the dangers asbestos fibers pose to humans.

"It is not prudent in any way," Selikoff testified before Lord, "to allow or to require these people to ingest particles which in other circumstances have been shown to cause cancer.

"We will not know whether or not these particular circumstances will cause cancer until 25 to 35—maybe 40—years have passed.

"This is, in my opinion, a form of Russian roulette, and I don't know where the bullet is located. But if we are wrong, then the consequences of that error are disastrous. Moreover, the consequences are particularly bad because while we play the game, others will have to pay the penalty."

Public officials from communities on Lake Superior, including the city of Duluth, have taken Selikoff's warning seriously enough to demand that their drinking water be filtered to remove the risky asbestos and asbestos-like fibers.

Rep. John A. Blatnik (D-Minn.), whose district includes the Reserve plant, has championed legislation to let the general public pay for the filtration system. He is chairman of the House Public Works Committee. Blatnik said in an interview that the Lake Superior situation is an emergency one and that there are established precedents for the nation as a whole to shoulder the cost of the public protection. The Lake Superior filtration system will cost about $12.8 million, according to recent government estimates.

Blatnik, who won state tax concessions for the steel companies that encouraged Armco and Republic to locate its processing plant in Silver Bay, said that the government mishandled the case in not assembling overwhelming evidence before suing Reserve.

Back in 1956, Blatnik pushed through Congress some of the first legislation to clean up the nation's streams and lakes. Now, 18 years later, Blatnik finds himself helping a polluter he encouraged to come into the state clean up its discharge. Blatnik is retiring from Congress at the end of this year.

Minnesota's junior senator, Democrat Hubert H. Humphrey, contended that it is justifiable to ask the public as a whole to finance the filtering out of fibers in Lake Superior. He compared that to residents around a lake paying for cleansing the water even though farmers had polluted it.

Grant Merritt, director of Minnesota's pollution control agency, and John P. Hills, who prosecuted the Reserve case in district court for the Justice Department, disagree. They said Reserve is definitely the polluter of Lake Superior and thus should pay for cleaning up the mess.

THE CONDITION OF OUR STOCK MARKET

Mr. BENTSEN. Mr. President, I would ask to include in the RECORD an excellent article by Peter Milius which appeared in the Washington Post on the condition of our stock market. I was pleased to see the article run on page two of the news rather than being buried in the financial pages. The deplorable condition of the equity markets must be of general concern because it affects our entire economy.

As this article points out, the price of an average share listed in the New York Stock Exchange has lost one-third of its value in the last 18 months. And the decline has been one of the longest in our history. Last summer when this decline had been underway for 6 months, the Finance Committee created the Financial Markets Subcommittee which I chair. We began hearings concerning the condition of the stock market and the ability of new businesses to raise capital to get started and to expand. Those hearings resulted in the introduction of my Stockholders Investment Act of 1973 in December.

Mr. President, the need for that legislation is even greater today than at the time I introduced it. We must restore health to our stock market if our economy is going to be able to expand its capacity to eliminate shortages and bring prices down. If we do not we will be faced with an economy of continuing shortage and higher price levels.

I am also submitting a summary of my bill which I intend to offer as an amendment to the general tax revision measure which we hope will soon be coming from the House.

I ask unanimous consent that the Washington Post article mentioned above and the summary of my bill be printed in the RECORD.

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

[From the Washington Post, July 14, 1974]

EIGHTEEN MONTHS OF DOWNHILL RACING: BEHIND THE STOCK MARKET MALAISE

(By Peter Milius)

On Jan. 11, 1973, the day President Nixon announced Phase III of wage and price controls, a relaxation of the government's regulations, the stock market hit an all-time high.

The Dow Jones Industrial Average, the nation's most famous stock-price index, closed at 1,051.70. The less widely quoted but more comprehensive New York Stock Exchange price index closed at 65.48. The market had never ended a day at such levels before.

In the 18 months since, corporate profits and dividends—two of the reasons for which people presumably buy stocks—both have headed sharply upward. So have most prices—but stock prices haven't.

While everything else has been moving up, the stock market has been moving down, substantially.

When the market closed last week, even after rallying on Friday, the Dow Jones Industrial Average stood at 787.23, off 25.1 per cent from its value 18 months ago. The New York Stock Exchange index closed at 48.36, down 33.8 per cent.

More than $235 billion in paper wealth has been sheared away in those 18 months of losses, in common stock on the New York Stock Exchange alone. There are other stocks and other exchanges; the total is higher.

In percentage terms, to judge by the NYSE index, the shake-out is already the second worst since World War II. It is surpassed only by the 38.5 per cent the index lost from December, 1968, through May, 1970, the months leading into the 1970 recession. And no one knows whether this one is over.

People have been hurt in the process. More than 30 million Americans have at least a little of their money in the market. Some have a lot. Some are in it for the amusement, but some depend on it for their old age. Millions, though not all of them know it, have sizable interests in the market through their pension funds and insurance companies, both of which are big investors.

Yet while some individuals have suffered, the economy as a whole has not, at least not discernibly. The market and the economy

are clearly related. The ups and downs of the market—the longer-term ones, not the daily ones—have generally foretold the economy's ups and downs in the past. The government has thus installed stock prices as one of its leading, or advance, economic indicators, a part of its economic early-warning system. It gave just such a warning in its downturn starting in 1968.

Yet that is not a cause-and-effect relationship, or at least not a clear one. The market, for all the space that newspapers give it—it rivals even the comics—is in some respects an institution off in a world all its own.

It rises or falls, great amounts of wealth are accumulated or lost, at least on paper, and yet it has little immediate effect on the basic economic aggregates—on production and profits, employment and incomes—except perhaps among stockbrokers.

In 1929, when the market crashed, the economy came down with it. Too much stock had nothing behind it, too much had been bought on credit, too much had then been pledged to raise money for further investments. Nothing is impossible, but there are regulations now to prevent much of what happened then. It is good when the market rises, bad when it falls—but not that bad.

What the market does, in theory, is serve as an intermediary between individuals who have savings they want to invest and corporations seeking capital. A corporation issues some stock. Individuals buy it directly themselves, or they do it indirectly by a kind of proxy through the pension funds or insurance companies or other institutions into which they have already put their savings.

They get a share of the corporation's profits and growth; it gets their money to expand or whatever else it wants to do. The market also provides the investors with a ready way to get rid of their shares, to convert them back into cash when they want to.

The market rises and falls by the law of supply and demand. When a lot of people want to buy stock, stock prices rise; when they don't, they fall.

What has happened in the past 18 months is that people haven't wanted to buy. The people who do most of the buying and selling in the market these days are the big institutional investors, the managers of all that money squirreled away in pension funds, insurance companies and their ilk.

They have been turning away from the stock market and into the money market, taking their money out of stocks and putting it instead into bonds or letting it out in what amounts to glorified loans, to the government, to corporations, and even to banks.

The reason for their turn-about has been inflation.

When the President announced Phase III in January of last year, investors had two thoughts in quick succession.

The first was that prices and profits would be free to go up faster, which was good; that may be why the market rose that day.

The second was that, as prices rose, the Federal Reserve Board would step in. That thought is enough to start prices down.

What the Federal Reserve Board does—what it has done time and again when prices have threatened to rise rapidly—is tighten up the money supply. The objective is to drive up interest rates, discouraging borrowing and demand, and thus eventually slow down inflation.

That means two things to someone with money to invest in stocks. One is that, as demand goes down, production also will decline, and so will profits. Dividend rates will thus go down—but interest rates are headed up. The investor thus moves out of the stock and into the money markets.

It is an oversimplification, but that is essentially what the big investors have been doing since Jan. 12 of last year, the day the market started downward.

Interest rates are at all-time highs today, while stock prices are depressed. They work on a seesaw.

When the market turned up in its rally Friday, it did so partly because of a sign that the seesaw might have begun to reverse itself. The Fed reported late Thursday that corporate loan demand dropped sharply last week from the week before. If loan demand falls, interest rates will, too. You want to get back in the market the day that it hits bottom and starts back up. You lose something if you're either too early or too late.

There is one further way in which inflation has affected the judgments that go into the market. It had led investors to put less value on the increased earnings companies have been reporting, their nominally higher profits.

Stock in some of the country's largest corporations is now selling at only four or five or six times the earnings, per share. At ratios like that, you would think a stock would be a better investment than a bond no matter what interest rate the bond was paying. But investors aren't sure those earnings are real.

For one thing, if your earnings go up 10 or 15 per cent in a year of 10 or 15 per cent inflation you haven't gained much. Your profits are up in dollar terms, but in purchasing power you've stood still.

Similarly, companies' profits rise in inflationary times simply by virtue of the fact their inventories rise in value. A lot of the profit reported in the past 12 months were of this sort. They are real in one way but illusions in another.

Sooner or later, the inventories will be used up and have to be replaced, at higher prices.

The same thing applies to the money corporations set aside for depreciation, to replace their worn-out plant and equipment. Rising profits are just like rising wages in inflation, often worth less than they seem.

It matters to people who own stock when the stock market falls. What does it matter to the corporations who's stock is doing the falling? Does it damage them at all.

It does if they want to raise more capital by issuing more stock. If they want to raise a certain amount of money, and their stock price is low, they have to issue more shares—in a sense give more of themselves away—than if the price is high. So they don't issue stock when prices are low.

Some companies have been squeezed by this situation in the last few months, particularly utilities. They need capital to expand, but with stock prices as low as they are, and interest rates high, they can't afford it.

That, though, is what the Federal Reserve Board has in mind when it tilts the seesaw; it wants to slow the economy down.

Most corporations, moreover, for all the mythology of the market, don't issue stock when they want to raise capital. New ones do, but established ones don't often, or haven't since World War II.

Most of their capital has been generated internally, either from set-asides for depreciation or by retaining earnings. Most of the rest they have borrowed in the money markets, through bonds and mortgages or simple bank loans.

In this, as in other respects, the stock market has not been all that important. It may become more so over the next several years, however. A lot of companies have borrowed about as much as they can. If they need more capital, and can't generate it internally, they may have to turn back to stocks.

In few of the years since World War II have corporations as a whole raised as much as $3 billion through the stock market—years when their total capital expenditures were steadily rising, until they are now at a rate past $100 billion a year.

By the late 1970s, though, one specialist at the Federal Reserve Board thinks, companies may be raising $10 billion to $20 billion a year on the market. Brokers would like that.

Meanwhile, though, there is that seesaw. When will it tilt again?

FACTSHEET to S. 2842—SENATOR LLOYD BENTSEN'S PROPOSED STOCKHOLDERS INVESTMENT ACT OF 1973

1. Limitations on the Stock Holdings of Pension Managers.—No pension fund could qualify for favorable tax treatment unless the assets of the fund were placed in the hands of a manager who invests no more than 5% of its aggregate discretionary pension assets in any one equity security and, in addition, who acquires no more than 10% of any equity security of any one company with respect to the aggregate discretionary pension accounts. This limitation would not apply retroactively. Managers of pension accounts would *not* be forced to dispose of current stock holdings to meet these limitations, but they could not acquire additional shares of any security in which the pension manager had reached the limitation.

If any manager of tax-exempt pension funds exceeds these limitations (for example, by purchasing an additional 1% of the total equity securities of a company in which it already holds 10%), a penalty tax equal to 5% of the excess holdings would be imposed on the manager by the Internal Revenue Service. In the event that the manager fails to dispose of the excess holdings within 180 days, IRS will impose an additional penalty of 100% of the excess on the manager.

Excess holdings that result exclusively from fluctuations in market values will not be subject to a penalty tax. These limitations will not apply to investments in companies with a capital account of less than $25 million. These limitations apply only to pension plans and not profit-sharing plans.

Limits on institutional holdings are necessary to protect the more than 30 million private pension plan participants from excessive concentration of pension investments in only a few select stocks and to encourage greater institutional interest in well-managed small and medium-size companies. In addition, these limits would help prevent a small number of large institutional investors from achieving too much control over our economy.

2. Venture Capital From Pension Funds.—Pension managers would be given leeway to invest 1% of the assets of any pension plan in companies with capital accounts of less than $25 million. This would be an exemption from any prudent man rule for 1% of the pension assets. However, the "leeway clause" would not relieve fiduciaries from any prohibitions against self-dealing or fraudulent transitions. The "leeway clause" would relieve a fiduciary from liability with respect to the risk of an investment.

This provision would facilitate the flow of pension investments to new and expanding smaller companies that are in great need of equity capital and which present a higher than normal risk but offer the possibility of a higher than normal return.

3. Graduated Capital Gains Tax.—Under present law, the maximum capital gains rate is 35% without regard to the special minimum tax provisions or any other provision. This legislation would decrease the maximum rate annually over the holding period of a capital asset until the maximum rate was reduced to about 14% for assets held fifteen years. Capital losses would be provided comparable sliding-scale treatment over the holding period of the asset. The present six

month holding period for capital gains treatment would be extended to twelve months. This would be phased in by one month per year.

This provision would help reduce the "lock-in" of long-term assets and provide greater liquidity in our capital markets. A graduated capital gains rate would also encourage the risk-taking spirit in America which has been so important to economic growth and the creation of new jobs.

4. Liberalized Capital Loss Treatment.—Today, if an individual's capital losses exceed his capital gains, he can deduct up to $1,000 against his ordinary income each year. This hasn't changed since 1942, yet per capital disposable income has risen over 400% since then. This bill would allow the individual to deduct up to $4,000 of capital losses against ordinary income. It would also allow a three-year carryback of capital losses against capital gains.

Liberalized loss treatment would encourage more risk investment which is so important in starting new businesses and creating new jobs. It would also encourage investors to take their losses, thus providing greater liquidity in our capital markets.

GENERAL DOUGHERTY TO ASSUME LEADERSHIP OF STRATEGIC AIR COMMAND

Mr. HRUSKA. Mr. President, during its years of existence, the Strategic Air Command, headquartered in Omaha, Nebr., has had a succession of outstanding military men as commanders in chief. The present commander of SAC, Gen. John C. Meyer, who is retiring from active duty on July 31, has continued that fine tradition.

As General Meyer retires from the Air Force, Gen. Russell E. Dougherty will assume command of SAC, having been transferred from his assignment as chief of staff at the Supreme Headquarters Allied Powers Europe.

Recently, Howard Silber, military affairs editor of the Omaha World-Herald, journeyed to Mons, Belgium, interviewed General Dougherty and developed a splendid question and answer session with him.

The resulting article is an excellent piece of journalism written by a highly qualified and well-informed newspaperman who has a superior knowledge of the Air Force. Mr. Silber has had his present assignment for a number of years and is a nationally recognized military writer.

Mr. President, I ask unanimous consent that the newspaper article, "New Boss Will Actively 'Sell' SAC Role," which appeared in the July 14, 1974 edition of the Omaha World-Herald, be printed in the RECORD at the conclusion of my remarks so my colleagues and all other interested persons will be able to obtain information in some depth on General Dougherty's thinking, aspirations, and concepts as he assumes his new assignment.

For example, during his interview, General Dougherty was asked to comment on the somewhat modish question frequently raised as to the possession of overkill nuclear capability by both the Soviet Union and the United States. In part, his answer is as follows:

The argument is without a foundation in fact.

You don't just count warheads and count cities and put the two together and come up with absolute assured destruction as a strategy for deterrence. Assured destruction is just one way of testing a force. It's not a strategy.

I think if you answer that question honestly you find out that assured destruction is just a measure of a part of a strategy.

As long as you're faced with a potential enemy who has the capability to destroy you then there is a fundamental bedrock aspect of a deterrent strategy that says you must maintain the capability to respond to that kind of threat.

Another concept frequently challenged by critics of the military and others is the necessity to maintain a superior military capability in view of the apparently high degree of détente. In this regard he spoke as follows:

Whether we will continue to maintain this capability in the future is really a problem because the competition is great and the fruits of détente are very attractive.

In fact, I think sometimes we're already eating those fruits before we even put out buds on the sapling tree of détente that has been made possible by the strength of the past.

So, it could be a self-defeating proposition.

Through strength we've been enabled to talk. The Soviet Union has shown me that it can sit at that table and talk about disarming and talk about peaceful measures and not let its strength down.

It would appear that General Dougherty conceives of an up-to-date and superior military position especially in the area of strategic forces as the basis and source of détente. This makes sense. In fact it is on that basis that President Nixon and Secretary of State Kissinger have been able to achieve great progress toward the cause of a durable peace.

The Air Force and the country are fortunate to benefit from the superior talent and sturdy characteristics which General Dougherty has developed. It is with confidence that we can expect all of his future achievements to be directed along the lines he has delineated in the interview with Mr. Silber.

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

[From the Omaha Sunday World-Herald, July 14, 1974]

NEW BOSS WILL ACTIVELY "SELL" SAC ROLE

(By Howard Silber)

MONS, BELGIUM.—As the next commander-in-chief of the Strategic Air Command, Gen. Russell Elliott Dougherty will shoulder some awesome responsibilities.

As he sees it, one of the most critical will be convincing the nation of SAC's importance and of its needs for the weapons to keep it the most powerful military command the world has known.

There can be little doubt that when Gen. George S. Brown, then Air Force chief of staff and now chairman of the Joint Chiefs of Staff, studied the list of qualified candidates last spring for what is generally regarded as the second most important post in the Air Force, he recognized that the coming three or four years could be the most critical ever for SAC.

The B52 bomber is wearing out rapidly, and there is no certainty of public and congressional acceptance of its prospective replacement, the B1.

The efficacy of the land-based missile, another mainstay of the Omaha-headquartered command, is being subjected to inquiry and, in some quarters, sharp attack.

The over-all concept of strategic deterrence, the foundation of both the nation's defense and of the highest level diplomacy of the United States, is being reexamined.

And, although opinion polls indicate that the public attitude toward the military has improved markedly since U.S. forces were withdrawn from Vietnam, defense spending proposals are being given close scrutiny in Congress and in the press.

SAC's chief must be much more than the stereotype of the stiff-backed, hard-nosed general who is prepared to unleash nuclear devastation on the order of the president.

His most important role, perhaps, is as an advocate for SAC and its strengths.

He must believe and he must be able to articulate those beliefs. He must be a credible salesman.

The man proopsed by Brown and accepted by the civilian bosses of the defense establishment as the successor to Gen. John C. Meyer is a veteran officer with about 12 years in SAC.

Dougherty is known as an astute planner, both here at Supreme Headquarters of Allied Powers in Europe, the top military command of the North Atlantic Treaty Organization, where he has served as chief of staff for the last 26 months, and at the Pentagon.

He is an attorney. He evidences a powerful command of the English language and is reputed to be one of the most brilliant orators in the Air Force.

In the earliest days of his military career, he was a trooper in the horse cavalry. And he remembers when money to feed the horses ran out.

The analogy between the failure of Congress to provide oats some 35 years ago and the coming decision on whether to put the experimental B1 into full production may not be a good one, he said.

Nevertheless, Dougherty cites it when he is asked what will happen to SAC if the B1 plan does not survive.

"I think the B1 is essential to continued effective deterrence," the 53-year-old Kentuckian said in an interview. "Some people may not agree with me.

"If more people don't agree with me than do, we're not going to get the B1."

But Dougherty doesn't plan a passive role.

"I'm going to try to help as best I can to interpret the needs" of SAC; "to interpret the future requirements as I see them and as SAC sees them for the continuing deterrent mission that's been ours."

As for arguments about strategic deterrence and its bombers and missiles:

"I would be appalled if the United States were not intensely interested and did not debate these key issues . . ."

What about the assignment beginning July 31 in Omaha?

Dougherty said he regards it as the best command job in the Air Force or possibly the entire military.

He and Mrs. Dougherty expressed delight at the prospect of living in Omaha.

One reason is that they will be just an hour's flying time from Evanston, Ill. Their first grandchild, the month-old son of their son-in-law and daughter, Mr. and Mrs. James Streicker, lives there.

Another is that the general will be able to keep closer tabs on the careers of his favorite second lieutenants. Mark and William Bryant Dougherty. The twin sons are in the Air Force.

And, although he has never lived in Nebraska, something unusual for a high-rank-ranking SAC officer, the general said he looks forward to cheering for the Big Red this fall.

"How can you live in Nebraska and not be a football fan?" he asked.

PROBLEMS AND HOPES

(By Howard Silber)

MONS, BELGIUM.—On May 1, 1972, Gen. Russell E. Dougherty left the Strategic Air Command's 2nd Air Force, pinned on his

fourth star and reported here as chief of staff at Supreme Headquarters of Allied Powers in Europe.

Now the general is preparing to return to the United States.

He will go to Omaha as commander-in-chief of the Strategic Air Command, taking over from Gen. John C. Meyer July 31. Meyer is retiring from the Air Force after nearly 35 years in uniform.

In answering the following questions, Dougherty discusses defense problems, weapons, the North Atlantic Treaty Organization, his hopes for SAC and his expected role as its next chief.

Q. You are taking command of SAC at a critical time—although, maybe, every period is critical for a command such as SAC.

But if yours is a normal tour, the decision on whether to put the B1 into production probably will be made while you are commander-in-chief. Also, you are taking over at a time when the land-based missile concept is coming under more intensive attack. You will be in the position of helping to sell the B1 and, at the same time, helping to bolster the land based missile concept.

How do you plan to approach both of these?

A. I plan to approach them as a key contributing member to the Air Force team that will be faced with the decisions with the buy of the B1, the testing of the B1, with which SAC will be initimately involved, and with the upgrading of our land-based missile force. I recognize what you say about the critical aspects of our times and I would certainly echo your inference that there have been many critical times before and this is just one of many.

But because SAC is a critical command, I suppose it is always going to be faced with critical decisions. And the critical nature of the command is such that the decisions are important, they're expensive and they are decisions that involve the whole of the United States, in fact the whole of the Free World.

From where I have just been serving in NATO, they definitely involve the future of the NATO alliance and its security in Europe as well as in North America.

So, I don't think we can walk away from the criticality of these things.

Also, the choice is not just ours. The choice is driven in large measure by those forces that are potentially inimical to us. And certainly the dynamism in the Soviet Union's strategic programs is such that we can't ignore it.

So, I'm going to try to help as best I can to interpret the needs of the command; to interpret the future requirements as I see them and as SAC sees them for the continuing deterrent mission that's been ours.

You don't do this sitting still. You don't do this inexpensively. And you don't do this without the intense devotion of a lot of people—more than the 160,000 in SAC.

I would be appalled if the United States were not intensely interested and did not debate these key issues of throw weight and technology of nuclear weapons; the strategic triad, and what Secretary Schlesinger (Defense Secretary James R. Schlesinger) calls "the NATO triad."

It's a different trilogy that he's talking about. But SAC and its people and its delivery systems are a key part of this whole international balance and the primary contributor to the strategic sufficiency of our country, without which I don't think any of the aspirations of our people for detente—for assured prosperity of our nation—could exist.

So, I hope to be very much a part of that and I hope to be a spokesman for our command requirements. Not a strident but hopefully, a persuasive spokesman.

Q. What will happen to SAC if the B1 decision is negative?

A. I was in the cavalry when they failed to appropriate money to feed the horses. The cavalry as such didn't survive that decision. I don't think the analogy would hold up with regard to SAC. If we didn't have the B1, we'd do the best we can with what we do have and with what the nation makes available to us.

I recall the phrase the secretary of defense used several months ago. He said, "A nation gets the kind of military force it deserves."

I know what he meant and, hopefully, our nation is going to get the best because it deserves the best.

I think the B1 is essential to continued effective deterrence. Some people may not agree with me. If more people don't agree with me than do, we're not going to get the B1.

If we don't get the B1, we'll try to make do with what we do have.

Q. There have been suggestions that an expanded fleet of FB111's might be a substitute for a B1 force. Do you see any significance applicable to the B1 in the fact that the F111 and FB111 production line is being kept open?

A. I don't have enough current knowledge of the situation to cast any light on that.

I'm very familiar with the FB111. In my prior role as commander of 2nd Air Force we had the two FB111 wings and the transition school that SAC conducts for the weapon system.

I've flown it. I know the people that made it. I respect it.

I participated in the initial decision on the B1 and its design as a member of the air staff. That was a good decision and I'm proud of that decision.

I don't look at these two things as competitive, though I recognize, realistically, that, to many people, they are competitive.

Q. There was a time when the Air Council was not unanimous on the B1. Could this be a weakness?

A. If those were honestly held opinions by knowledgeable people involved with the decision, I don't think dissent on the Air Council is necessarily bad. There are always differing perspectives and differing views on major issues.

But I can't accept the fact that the Air Council was not unanimous in this decision. I don't really recall there being that kind of dissent.

Certainly the Air Council was very, very searching in its inquiry and put the propositions that were before it to some very searching tests before it came up with a corporate decision and a recommendation to the chief of staff, the secretary of the Air Force and the senior officials in the Department of Defense.

JOINING BIG RED—WE'RE INTERNATIONAL

Q. I know you've never lived in Nebraska but I understand that you've already been warned that you'd better be a Big Red football backer. Is that correct?

A. I wouldn't want to mention any names publicly but, yes, I did get a letter saying that, if I weren't prepared to be a Big Red supporter, don't come.

It was from a friend and I'm sure that he was very serious.

How can you live in Nebraska and not be a football fan?

I'm looking forward to experiencing some of the thrills that other Nebraskans experience from September through December. In fact, frequently into January, it's my recollection.

It will be pretty great to be associated with a winning football team. I know Nebraska is going to have a winning team. They may not win enough to satisfy the residents of Nebraska but they will win enough to be nationally recognized by everyone.

In fact, they are internationally recognized. Surprisingly, Nebraska is very well recognized in Europe. We even find a lot of Europeans asking us for copies of our Stars and Stripes sports section because they keep up with what's going on in the major conferences.

This surprises a lot of people in the United States, but it's so.

PEOPLE MAKE SAC GOOD

Q. What was your feeling on being named to go to Omaha as SAC's chief?

A. You can't be designated as commander-in-chief of the Strategic Air Command without giving a lot of thought to it.

I suppose that the first feeling I have is one of humility. I don't mean by that that I'm apprehensive or scared of taking on the job, because I'm not.

But this feeling of humility comes over me because I understand what the job is.

I understand it from having been in the command. I understand it from having worked at Washington levels with things affecting the command. I understand the planning for strategic nuclear forces that is demanded by our national strategies. And I understand the importance of our U.S. strategic forces from the European perspective, where oftentimes they are far more important than they are to the average person in the United States because of proximity to the threat and because of a historical subjugation to the threat.

Yes, humility. Also, I'm delightfully surprised. I say delightfully because anybody that has the opportunity to command what I consider to be the Air Force's greatest command, if not the nation's greatest military command, is going to be delighted at the prospect.

And surprised because looking around at those people who might have been designated for this job, not only are they all very close friends of mine but they're people I've known—I know there are several officers who are well qualified to have commanded SAC. To have been chosen from that group for this job is surprising.

Contrary to what a lot of people think, senior officers in the U.S. Air Force don't ask for assignments and they don't volunteer nor seek assignments.

So I didn't ask for this job, but there isn't a job in my profession that I would rather have had.

SAC is a great command, and to make that great command even a little bit greater is quite a challenge.

Q. How are you going to make SAC greater?

A. That's the toughest question, I guess, you could have asked me.

The people of SAC can make it greater. The way they respond to the requirements of our national command authorities can make it greater.

Hopefully, we can be more responsive to our times; to the requirements of our national strategy of deterrence; to the challenges that are posed by the programs of the Soviet Union and, after all, as Secretary Schlesinger said the other day to Congress, we're not talking about the defense programs of Chad or Guatemala. Let's face it, we're talking about the defense challenges posed by the military programs of the Soviet Union and, specifically, the strategic programs of the Soviet Union.

I want to do what I can to help SAC respond better, faster, more flexibly; to make our weapon systems more powerful, more responsive; to make our peoples lives more comfortable, to make SAC a better place for good people to live and to raise families and to take pride in.

I watched my predecessors over the years do their best, and their best has been darned good. I'd like to try to keep that momentum that has marked SAC over the years.

MIRV IS A MEANINGFUL OPTION

Q. A year ago, shortly before he retired, Gen. Ryan (John D. Ryan, Air Force chief of staff and a former SAC commander-in-chief) was asked a hypothetical question: If he had one project and only one project that could be funded to enhance the capability of SAC, what would he choose?

He said he would equip all of the Minuteman missiles with MIRV (550 of the total force of 1,000 presently are authorized for multiple warheads).

A. If Gen. Ryan said it, my inclination would be to swear by it on the spot. I wouldn't propose to comment on it at this time because I think a question such as that is one that I would be better prepared to answer after the extensive exposure such as Gen. Ryan had to the command.

Certainly MIRVing, or I suppose you say converting to a Minuteman III configuration, all of the Minutemen of SAC would be a very meaningful option for the United States to consider and for the command to do.

We're faced with a very logical and reasonable new emphasis in our targeting flexibility and some aspects of the application of our strategy to this doctrine. It's a very needed and a very important thing that the United States is doing.

MIRVed Minuteman—the Minuteman III configuration—together with the ability to retarget those missiles remotely and in near real time would contribute greatly to the flexibility and to the options that would be available to the President.

I would think that Gen. Ryan being a very practical man, almost parsimonious when it came to husbanding the resources that were within his authority, would have inferred that this was a low-cost way to achieve increased options and sufficiency.

My own opinion on this is that it is a very worthwhile thing if we are to continue to maintain the kind of strategic sufficiency that has been successful and is being forced to the front of American debate on these things by the momentum and the recently revealed dynamic missile programs of the Soviet Union.

We just can't ignore what's going on on the other side of the Iron Curtain. And what's going on is something that forces us to look at options to improve our own capabilities.

Q. Then, to use a leading question, it would follow that work toward the next generation of land-based missiles would be very important. Would you comment?

A. I think that work toward the next generation of land-based and sea-based missiles is very important.

I read into that question an interest in throw weight. (The weight capacity of a missile). I suppose that's what you imply there, because to make dramatic increases in the throw weight you would really need at least leneration if not another model.

Throw weight, in a sense, is what it's all about in a missile.

You can compensate for lack of throw weight with technology just so far. At a point, you have to look at increased throw weight and this, of course, is the hallmark of concern that so many of us have with what is happening in the Soviet strategic missile program.

Where we thought percentages of increase in the order of 10, 20 or 30 per cent would be possible within their missile force we may be faced with orders of magnitude increase in throw weight.

Faced with that, we've got to consider how we can keep pace if we continue to provide the meaningful deterrence that's fundamental in national strategy for strategic forces.

TALK OF OVERKILL 'JINGOISTIC'

Q. General, it's become sort of modish among some politically motivated critics of the military and some unbiased people who may question the proliferation of nuclear weapons to make much of mutually assured destruction.

They use the premise that we have enough nuclear capability to wipe out the Soviet Union several times over and they have enough to wipe us out several times over in attempts to tear down the triad concept.

Can you answer that in a relatively few moments?

A. No, sir. Honestly, I can't answer that in a few moments. I think maybe I can provide a couple of indications of the answer to that question.

I know the arguments; I've heard them over the years.

I think they're more philosophical and doctrinal than they are substantive.

It's very easy for a person to be swayed by the jingoistic overkill philosophy and overstatements. I find this quite often among young people. They are very persuaded by this because the argument is almost a prima facie argument; it won't bear close examination but it sounds good at the outset.

I talk at every opportunity with these young people. In my assignment at SHAPE we made a point of trying to bring in young intellectual groups from the universities throughout Europe and I find it prevalent in Europe as I do and have in the United States.

The argument is without a foundation in fact.

You don't just count warheads and count cities and put the two together and come up with absolute assured destruction as a strategy for deterrence. Assured destruction is just one way of testing a force. It's not a strategy.

Also, it's wishful thinking to think that you could do things, that things are that precise, that things bear that measurement.

And what does a society accomplish if it assuredly destroys itself?

I think if you answer that question honestly you find out that assured destruction is just a measure of a part of a strategy.

As long as you're faced with a potential enemy who has the capability to destroy you, then there is a fundamental bedrock aspect of a deterrent strategy that says you must maintain the capability to respond to that kind of threat.

So that's a starting point. But it's not a complete strategy.

NATO OFFERS REASONABLE DEFENSE

Q. Would you assess the military capability of NATO today?

A. I think it fair to say that where NATO stands today is that we have a reasonable defensive posture against most forms of attack that this alliance might be subjected to.

We couldn't answer, we couldn't defend against and we couldn't provide our nations the assurance that we could defend against—any kind of attack you postulate.

Too many times visitors go home from here with the wrong answer. They postulate a situation and say, "Could you defend against that?"

Sometimes you may be faced with a 10-to-1 superiority along one part of NATO's European boundary.

The answer is, "No, we couldn't hold against that kind of attack."

So they go back and, the next thing you know, at a press conference at planeside they say:

"All the military leaders I talked to in Europe say that they can't defend for 24 hours, three days or one week. So what's the use? Why don't we go home?"

That's not the situation over here. We've had a reasonable capacity to defend NATO. Not a reasonable possibility of defending successfully against any form of attack that you can postulate.

We're faced with a very large standing force. It's very well armed. It's modernizing at a very rapid pace. You can't ignore that standing force right along the political boundary of NATO.

On the other hand, NATO is far from impotent.

Over the 25 years of its history we have tied together the nations of Europe with the United States and Canada and with the North Atlantic and SACLANT and his forces.

We've tied them together into a cohesive defensive environment that is well equipped with bunkering points, with airfields, reinforcing areas, with all sorts of things that make this a collective force.

And people who don't understand the difference between a collective force and a collection of forces don't understand what NATO is all about.

The individual strengths of the forces of the individual NATO nations are made stronger because they are banded together in every possible way to which our nations will agree.

We've got an integrated force. I've been a part of the integrated headquarters of that force.

Secretary Schlesinger has talked about the NATO triad. What he means is the strategic forces primarily provided by the United States—the forces for which we in SAC will be largely responsible—coupled with the theater nuclear forces that are by and large under Gen. Goodpaster's (Andrew Goodpaster, supreme allied commander in Europe) control operationally and the conventional forces.

The conventional forces in Europe are the very key to where that nuclear threshold is.

If they are weak and can be overwhelmed rapidly, the decisions with regard to nuclear weapons are going to be faced much sooner than anyone would like. In fact, no one likes facing them at all.

But there's an interaction of our strategic forces, the theater nuclear forces largely provided by the United States and the strong conventional forces that we've maintained over here and that European NATO nations are maintaining.

These are expensive and they are getting more so rapidly. The nations are being squeezed more and more by domestic programs, by the requirements of expanding economies, the requirements of social programs of all sorts.

When that happens, defense is the first place they look.

A lot of NATO nations are looking very searchingly at that right now. We could name almost any nation.

Whether we will continue to maintain this capability in the future is really a problem because the competition is great and the fruits of detente are very attractive.

In fact, I think sometimes we're already eating those fruits before we even put out buds on the sapling tree of detente that has been made possible by the strength of the past.

So, it could be a self-defeating proposition.

Through strength we've been enabled to talk. The Soviet Union has shown me that it can sit at that table and talk about disarming and talk about peaceful measures and not let its strength down.

GLOSSARY OF TERMS

B1—The advanced bomber proposed as a possible replacement for the B52. Three prototype planes are being produced by Rockwell International with the first flight expected next fall. A production decision will be based in large degree on the success of the prototype tests.

NATO—North Atlantic Treaty Organization.

Triad—the "three-legged" strategic deterrent of land-based missiles, sea-based missiles and nuclear-armed bombers.

Throw Weight—The warhead size and weight capacity of a missile.

FB111—The strategic bomber variant of the swing-wing F111, once known as the TFX.

2nd Air Force—One of three major units within SAC; headquartered at Shreveport, La. The others are the 8th and 15th Air Forces.

FB111 Wing—A unit consisting of two squadrons or about 30 FB111s and some aerial tanker planes.

Transition School—Where accomplished pilots are retrained to become proficient with an airplane in which they are not presently proficient.

Air Council—A panel of lieutenant generals, most of them Air Force deputy chiefs of staff.

MIRV—Multiple independently Targeted Re-entry Vehicle, or missiles with more than one warhead with multiple target assignments.

Minuteman III—The type of Minuteman missile designed for MIRV.

Real Time—In electronic computer lexicon, the concurrent updating of information.

Mutually Assured Destruction—The supposed capability of the United States and the Soviet Union to destroy each other with nuclear weapons.

Overkill—The potential of delivering more than enough nuclear destructive power to wipe out a military base or city.

SHAPE—Supreme Headquarters of Allied Powers in Europe. The military arm of NATO.

SACLANT—Supreme Allied Command Atlantic, a largely naval force of NATO, headquartered at Norfolk, Va.

OIL COMPANY CONCENTRATION

Mr. MONDALE. Mr. President, I recently introduced S. 3443, the Petroleum Moratorium Act of 1974, which would impose a moratorium on acquisitions by the 15 largest domestic oil companies of independent refiners, pipelines, and retail outlets.

A recent editorial by WCBS–TV in New York City talks about the problem of oil company concentration and its relation to S. 3443. I believe this editorial presents the issues fairly, and makes an effective case for legislation which would prevent the largest oil companies from further strangling competition while the Congress and the courts decide the future of competition within the industry.

Mr. President, I commend this editorial and ask unanimous consent that it be printed in the RECORD.

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

OIL CONCENTRATION

People are mad at the oil companies. It's only human nature to be mad when the price of gasoline and heating oil is going up while oil companies' profits are soaring. These prices and profits have been stimulating more and more questions about the way the oil companies operate, and especially about whether more competition in the oil industry is needed.

The questions are being raised by congressmen, the Justice Department and the Federal Trade Commission. Fundamentally, the issue is whether competition is being destroyed in the oil industry because it has been increasingly dominated by a small group of huge companies.

A recent report prepared by the Library of Congress shows that in 1952 the 20 largest companies controlled 32.8 per cent of the total production of crude oil whereas now the same 20 control 70 per cent of the crude oil production. The report also documents a high degree of concentration in the other phases of the business. It shows that these 20 companies control 94 per cent of the proven oil reserves in America, 86 per cent of the refinery capacity, 69 per cent of the interstate pipelines, and 79 per cent of the gasoline retailing facilities.

And in a court suit against the eight major oil companies, the Federal Trade Commission claims that one result of this concentration is a tendency to throttle competition, that for over 20 years the eight companies have, through various arrangements, effectively controlled oil industry markets and squeezed out independents. The oil industry denies these charges and says that it's less concentrated than most large industries and that the expense and risks involved justify their joint actions. It is estimated that the FTC case will be in the courts at least eight years.

But what if the FTC proves its case? In the next eight years or so the oil industry could become more, even more concentrated while the case is being decided. To deal with this problem, Sen. Walter Mondale has introduced legislation that would halt the expansion of the largest oil companies until the case is decided. The Minnesota Democrat's bill would prevent 15 of the largest companies from acquiring any more pipelines, refineries or retail outlets after this July.

But the bill would not make the oil companies give up those they currently own, and it would not restrict the oil companies from expanding any of their present operations.

In our opinion, the Mondale bill makes sense. It does not punish big oil companies merely because they are big. It just prevents them from getting bigger while the courts decide whether they are strangling competition.

WORLD POPULATION YEAR

Mr. PERCY. Mr. President, 1974 has been proclaimed by the United Nations as World Population Year, and the World Population Conference will be held next month in Bucharest, Romania.

Overpopulation of the earth is a major cause of the current shortages of fuel, food, and metal ore resources that we are experiencing. Our planet has a tremendous wealth of natural resources and an immense capacity to produce the crops we need for food. But in recent years, world population has expanded so sharply and the per capita demand for resources has climbed so rapidly that humankind is quickly approaching a point where the earth will no longer be able to provide the basic components necessary for human survival for all who seek to survive.

The declaration of World Population Year by the U.N. marks a major attempt to gather international support for the concept of stablized population. It also is an indication of the great significance the United Nations attaches to the issue of population growth and of the priority the U.N. places on solutions to the complex problems of overpopulation.

For the first several months of this year, there was little public evidence that the United States was participating in World Population Year, and I was quite concerned. Recently, however, a number of events have occurred that indicate our Government and our people are indeed interested in and committed to participation in World Population Year.

First of all, the Secretary of the Department of Health, Education, and Welfare, Caspar Weinberger, has been named to head the U.S. delegation to the conference next month. I am confident that Secretary Weinberger will insure that the policies our delegation supports at the conference will be carefully balanced to assure effective progress toward reduced population growth while respecting the rights and beliefs of those nations not sharing our position. I know that Caspar Weinberger has the skill, sensitivity, and commitment required to achieve such a balance.

Last week, three additional events occurred that further demonstrate the growing recognition to the significance of World Population Year. On July 9, President Nixon issued a proclamation officially designating 1974 as World Population Year in the United States. I commend the President for this action, for his continuing strong stand in favor of population stabilization, and for incorporating into his proclamation the concept that human dignity and social justice are related inextricably to population stabilization. It is precisely this concept we as a nation must endorse and illustrate in our own country so that all nations will come to realize that unrestrained population growth will impoverish and humble the peoples of this Earth.

I ask that the Presidential proclamation be printed at this point in the ORD.

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

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA—A PROCLAMATION

One of the most pressing challenges in the last third of the twentieth century is to find ways of meeting the basic needs of the world's burgeoning population.

The causes of population growth are well known: death rates have been cut dramatically by welcome advances in medical science and health services while birth rates have not declined. As a result, according to estimates by the United Nations, some 80 million people will be added to the world's population this year and, if current trends continue, the world's total population of more than 3.8 billion could double by the first decade of the twenty-first century.

While the causes are clear, the solutions are not. Many tough choices will have to be made. The United States has no interest in imposing solutions upon other countries, but it does seek to help in a way which maintains our traditional respect for human freedom and dignity. The concern of all nations should remain with the human and physical environment of all of our fellow men in seeking together ways in which mankind can discover new paths to partnership and progress.

As many of the developing countries have already discovered, it is urgent that acceptable solutions be found to this challenge. The United Nations has designated 1974 as World Population Year, and has called upon all governments and peoples to participate in its observance. In August of this year, the United Nations will convene a World Population Conference in Bucharest, Romania. The United States Government welcomes the declaration of World Popula-

tion Year as an historic opportunity for all nations to study their own and world patterns of population growth and distribution.

Now, therefore, I, Richard Nixon, President of the United States of America, do hereby designate and proclaim the year 1974 as World Population Year in the United States. I call upon the Congress and officials of our Federal, State and local governments, educational institutions, religious bodies, private organizations, the information media, and the people of the United States generally to join this year in promoting a better understanding of the magnitude and consequences of world population growth and its relation to the quality of human life and in renewing our commitment to human dignity and social justice.

In witness whereof. I have hereunto set my hand this ninth day of July, in the year of our Lord nineteen hundred seventy-four, and of the Independence of the United States of America the one hundred ninety-ninth.

RICHARD NIXON.

Mr. PERCY. On July 11, the President announced the appointment of 20 persons as members of the National Commission for the Observance of World Population Year, 1974, whose responsibility it will be to promote the appropriate observance in the United States of 1974 as World Population Year. The appointed members are:

Clifford M. Hardin, of St. Louis, Missouri; Vice-Chairman, Ralston-Purina Company, St. Louis.

Mrs. Norman C. Armitage, of Alexandria, Virginia; President, National Federation of Republican Women.

Sprague H. Gardiner, of Indianapolis, Indiana; Professor of Obstetrics/Gynecology, Indiana School of Medicine, Indianapolis.

Edward N. Cole, of Bloomfield Hills, Michigan; President and Chief Operating Officer, General Motors Corporation, Detroit, Michigan.

Charles H. Crutchfield, of Charlotte, North Carolina; President, Jefferson-Pilot Broadcasting Company, Charlotte.

Lev E. Dobriansky, of Alexandria, Virginia; Professor of Economics, Georgetown University, Washington, D.C.

Mrs. Cecil G. Grant, of the District of Columbia; Public Schools Coordinator of Youth Serving Youth tutoring program; and part-owner, Colour Graphic Inc., Washington, D.C.

Rev. Dexter L. Hanley, of Scranton, Pennsylvania; President, University of Scranton.

Mrs. Jack A. Drown, of Rolling Hills, California; civic leader.

Mildred F. Jefferson, of Boston, Massachusetts; Assistant Clinical Professor of Surgery, Boston University School of Medicine; Active General Surgery, University Hospital, Boston University Medical Center.

Joseph M. Segel, of Yeadon, Pennsylvania; President of the Franklin Mint, Inc., Yeadon, Pennsylvania.

Frank W. Notestein, of Princeton, New Jersey; Visiting Senior Research Demographer, Office of Population Research, Princeton University, and President Emeritus, The Population Council of New York.

Aida Casanas O'Connor, of Orangeburg, New York; Attorney, New York State Division of Housing and Community Renewal, New York, New York.

Leahseneth O'Neal, of the District of Columbia; professional track star and Director of Tenant Relations, Savage-Fogarty Companies Inc., Washington, D.C.

Frank A. Palumbo, of Vienna, Virginia; Secretary-Treasurer, International Association of Fire Fighters, Washington, D.C.

Edward J. Piszek, of Fort Washington, Pennsylvania; President and Owner, Mrs. Paul's Kitchen, Philadelphia, Pennsylvania.

Jody Elmer Smith, of Ayrshire, Iowa; Mayor of Ayrshire.

Elvis J. Stahr, Jr., of Greenwich, Connecticut; President, National Audubon Society, Audubon House, New York, New York.

Arthur R. Taylor, of Summit, New Jersey; President, CBS, New York, New York.

Nicolas Palen Thimmesch, of Chevy Chase, Maryland; Syndicated Columnist, Los Angeles Times Syndicate, Washington, D.C.

The President also announced the designation of Clifford M. Hardin to serve as Chairman and the designations of Mrs. Norman C. Armitage and Sprague H. Gardiner to serve as Vice-Chairmen of the Commission.

Mr. PERCY. I am pleased that the Commission has been named, and I urge the members to seek all means of making known to all Americans the importance of World Population Year and the necessity for our country to continue and expand its leadership role in providing population assistance to those foreign nations desiring and requesting such aid.

The third event last week was the publication by the Washington Post of an editorial on world population. The editorial accurately points out that world population stabilization is necessary if humankind hopes to maintain the standard of living the developed countries have achieved and to improve that standard in the developing nations. But more importantly, the editorial gives a good idea of just how difficult achieving international cooperation for population stabilization will be. I ask unanimous consent that the Post editorial may be printed in the RECORD.

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

THE WORLD POPULATION

The United Nations World Population Conference, which will open in Bucharest August 19, should help to dispel some simplistic notions about the "population problem." The problem, to be sure, is real. The ancient, although cruel balance of nature is upset. Advances in public health and medicine have reduced infant mortality and extended man's life span. More people are born into the world than leave it. The present world population of 3.7 billion could double by the end of this century. The rate of increase is twice as fast in the developing countries, threatening their prospects for economic and social progress by wiping out what improvements in the standard of living there are.

One simple notion has it that poor people have many children because they don't know any better. Give them the pill, the coil or the loop, along with the education to use these devices, and they will happily comply with the kind of "family planning" Westerners think best for them. This condescending attitude has not worked very well. The most important lesson of 10 years of family planning programs in Africa, Asia and Latin America seems to be that poor people are not stupid. They respond quite rationally to their economic circumstances, which dictate that they have many children to help obtain food and provide for them in old age. The birth rate, it has been shown, falls when the standard of living rises—when the struggle for survival becomes less desperate and the fear of dying alone and in abject poverty fades.

Some representatives of developing nations argue, therefore, that family planning programs are futile and that "economic development is the best pill." But that, too, is simplistic. It is true, you can't have effective birth control without economic development. But neither can you have effective economic development without some birth control.

The Bucharest conference, which is expected to be the largest gathering ever to convene under the auspices of the United Nations, will therefore concern itself with a great deal more than birth control. Rapid population growth is not the only population problem. Some under populated countries, in fact, cling to the dubious belief that they must increase their populations to protect their territory, swell their labor forces and enlarge their domestic market. Others are more concerned about migrant workers (14 million Southern Europeans and North Africans are now working in foreign countries) and rapid urbanization than they are about the baby boom. Population problems and policies have a direct bearing on world resources, the environment and the livability of the world's growing cities.

The conference, directed by Antonio Carrillo-Flores, former finance and foreign minister of Mexico, seems to have been well prepared at numeorus international meetings. Experts have drafted a proposed world population "plan of action" which outlines principles, policies and goals and lays the groundwork for increased international cooperation. The deliberations in the capital of the Socialist Republic of Romania promise to be well attended and will be followed around the world. Following the U.N. conference on the Human Environment in Stockholm two years ago and preceding the U.N. conference on Human Settlements in Vancouver two years hence, the conference is part of the U.N.'s global effort to come to terms with the immense and frightening changes on this planet.

Mr. PERCY. Mr. President, the issue of population control is complex and highly sensitive. Yet we dare not shy away from it, for the concentrated efforts of all peoples and all nations are needed if we are to renew, in the words of the President,

Our commitment to human dignity and social justice.

I urge my colleagues in Congress and all Americans to participate in whatever way possible in World Population Year.

CHILD AND FAMILY SERVICES ACT OF 1974

Mr. MONDALE, Mr. President, last week I introduced with Senator JAVITS and 22 other Senators S. 3754, The Child and Family Services Act of 1974.

I now have a section-by-section analysis on that legislation which should be helpful to my colleagues and others across this country who are interested in this legislation.

I ask unanimous consent that a copy of this section-by-section analysis be printed in the RECORD as part of my remarks.

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

SECTION-BY-SECTION ANALYSIS OF S. 3754, THE CHILD AND FAMILY SERVICES ACT OF 1974

(Introduced on June 11, 1974 by Senators Mondale, Javits and Senators Abourezk, Clark, Brooke, Case, Cranston, Hatfield, Hathaway, Hart, Hollings, Hughes, Hum-

phrey, Kennedy, McGee, Metzenbaum, Nelson, Pell, Percy, Randolph, Ribicoff, Stafford, Stevenson and Williams.)

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 child 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. *Authorization of Appropriations*—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 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 to assume the responsibilities of the Office of Child Development and serve 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 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 administrative 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 migrant and Indian children, not less than 10% for services to handicapped children, and not less than 5% for monitoring and enforcement of standards.

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 coordination of all services for children within the prime sponsorship area; assurances of non-federal share; establishment of a Child and Family Services 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 with 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 nonprofit 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.

Directs the Secretary to designate an alternative to any prime sponsor discriminating against minority group children or economically disadvantaged children.

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. *Child and Family Service Plans*—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 priority consideration for ongoing programs and applications submitted by public and private non-profit organizations; provide for coordination with other prime sponsors and with other child care and related programs in the area; provide for monitoring and evaluation to assume programs meet federal standards; where possible, supplement funds provided by this Act with assistance from other sources.

Requires that the Governor, all local education agencies Headstart and community action agencies 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, pursuant to a project application approved by the CFSC.

The project applicant must establish a parent policy committee (PPC), composed of at least 10 members with 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 center, 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 family members, including employment opportunities; provide for dissemination of information on the project to parents and the community; and provide opportunities for the participation 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 care and related services; to develop and enforce state licensing codes for child care 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 and federal funding for alteration, remodeling, and renovation. Provides that no more than 15% of a prime sponsor's funds may be used for construction; that no more than half of that may be in the form of grants rather than loans, and that construction assistance will be limited to public and private non-profit agencies, organizations, and institutions.

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

Section 111. *Payments*—Provides 100% federal share for fiscal 1976 and 1977, 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—STANDARDS, ENFORCEMENT, AND EVALUATION

Section 201. *Federal Standards for Child Care*—Authorizes 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 any new standards must be consistent with the 1968 Requirements.

The Secretary must submit the proposed standards for approval to the Senate Committee on Labor and Public Welfare and the House Committee on Education and Labor. 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. *Program Monitoring and Enforcement*—Requires the Secretary through The Office of Child and Family Services, to establish an adequately trained staff to periodically monitor programs to assure compliance with the child care standards and other requirements of the Act.

Section 204. *Withholding of Grants*—Provides procedure for withholding of funds to programs which have failed to comply with standards or requirements of the Act.

Section 205. *Criteria with Respect to Fee Schedule*—Requires Secretary to establish criteria for adoption of the schedules based on family size and ability to pay with considerations for regional differences in the cost of living. The criteria must be submitted for approval by the Senate Committee on Labor and Public Welfare and the House Committee on Education and Labor.

Section 206. *Evaluation*—Requires the Secretary to make annual evaluations and report to Congress on federal child family services activities.

TITLE III—RESEARCH AND DEMONSTRATIONS

Section 301. *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—TRAINING OF PERSONNEL FOR CHILD AND FAMILY SERVICES

Section 401. *Preservice and Inservice Training*—Provides for training of personnel, including volunteers, employed in programs assisted under this Act.

Section 402. *Technical Assistance and Planning*—Provides technical assistance to child and family services programs.

TITLE V—GENERAL PROVISIONS

Section 501. *Definitions*—Defines terms used in the Act.

Section 502. *Nutrition Services*—Requires that procedures be established 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 503. *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 504. *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. Protects legal rights and responsibilities of parents with respect to the development of their children.

Section 505. *Public Information*—Requires that all applications, plans, and written material pertaining thereto be made available to the public without charge.

Section 506. *Repeal or Amendment of Existing Authority and Coordination.*

Section 507. *Acceptance of Funds.*

EARL WARREN: LATE CHIEF JUSTICE OF THE UNITED STATES

Mr. MATHIAS. Mr. President, it was Abraham Lincoln who warned us, "Fellow citizens, we cannot escape history." Certainly Earl Warren did not escape history and it is a measure of his stature that he did not try. He confronted some of the toughest problems of his generation, and he never flinched. It was his nature to meet decisions frontally; he did not allow them to overtake him from the rear as he fled from them. This is not to say that he was always right, but rather that he habitually acted upon what he thought was right.

I recall his description of a visit to Boston where he told the audience that he thought Lincoln had believed what he said about the dignity of the individual and the value of human life. Then Chief Justice Warren added that he agreed with Lincoln and applied the Lincolnian philosophy to some current economic and social issues. The Chief Justice concluded the anecdote by remarking with a chuckle, but no sign of regret, that he had never been invited back.

His measure as a judge is memorialized in the judgments of the Court over which he presided. I think he clearly understood what Sir William Blackstone meant when he said that the law is "the principal and most perfect branch of ethics." Chief Justice Warren tried to keep the law of the land an accurate expression of our national ethics, and in so doing he not only conserved the most ancient traditions of our jurisprudence, but vested in the law the vitality and validity that each generation must impart.

And now, as in his lifetime, Chief Justice Warren cannot escape history. Speeches in the Senate will not alter history's view of him. But we who knew him well and personally can salute him as he passes and say both thanks and farewell.

THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, the International Convention on the Prevention and Punishment of the Crime of Genocide represents a significant chance for an increase in international moral cooperation. By ratifying the convention the United States could join with more than 70 other nations in a commitment against this henious crime. Twentieth-century international relations have often, sadly, been characterized by an avoidance of ethical considerations. The Genocide Convention directs its signers toward a recognition of a fundamental human freedom—the right to life itself—and pledges them to action against those who would systematically abuse this right.

The convention does not, for all its significance, fundamentally alter the conditions of relationships between nations. Contrary to the contentions of some critics of the pact, it does not alter the rules of warfare governing the treatment of either prisoners or civilians. Nor does it apply to such controversial issues as voluntary population control measures or racial discrimination, or to events of actions in any nation's past. It is directed toward systematic exterminations, not domestic conflicts or conditions.

The Genocide Convention is, however, a significant moral opportunity. The ratification of the accord would demonstrate, as the late President Harry Truman said when he first submitted the pact for the approval of the Senate in 1949, "that the United States is prepared to contribute to the establishment of principles of law and justice." Indeed, we can scarcely claim the leadership of the free world if we continue to decline to support this most basic human liberty.

UNION STRIKE VOTES AND THE SECRET BALLOT

Mr. HANSEN. Mr. President, I listened with great interest to my colleague from Michigan—Senator GRIFFIN—yesterday as he discussed his amendments to S. 1566, one of which would allow for a union strike vote to be by secret ballot. I wish to add my support to his effort.

A labor union members' vote on whether or not to strike seems to me, Mr. President, every bit as important, if not more important, a decision as any vote he or she may cast for any public office. A strike vote immediately and directly affects his family and his livelihood.

It seems to me, therefore, Mr. President, that such an important decision should be made via the sanctity of the secret ballot.

The Congress over the past several years has championed the cause of one man, one vote and civil rights. It appears somewhat hypocritical not to carry this same ideology and protection into the area of strike votes for the working men and women of this country.

It is my understanding, Mr. President, that all too often crucial strike votes are held by voice or show-of-hands after the union leadership has presented its position.

I am not in favor of increasing "secrecy per se" in this country, but I am in favor of guaranteeing every labor member a free choice on his or her desires in strike issues totally devoid of any "pressure."

Without the protection of a secret ballot, Mr. President, I contend, each voting member will be subjected to peer groups and social pressures which, in essence, deny free choice.

I cannot believe, Mr. President, that when the cause for strike is right—is justified—that a sceret ballot could in any way alter the members' decision to strike. I cannot believe that a secret ballot will hamper in any way the right of collective bargaining. In fact, in many ways it might enhance that right by guaranteeing that a strike, if called, is truly the result of membership desire.

However, when a strong case against striking can be made and the members of a union genuinely desire to keep working for the time being, or to resume working, the secret ballot will protect that course of action.

Mr. President, I again compliment my colleague from Michigan for his effort in this area and pledge my support to him.

Thank you.

SOCIAL SECURITY IS SOUND AND WORKING

Mr. CHURCH. Mr. President, last year the Senate Committee on Aging launched a comprehensive inquiry into "Future Directions in Social Security."

During the past 2 years, the committee has heard excellent testimony about various alternatives for strengthening the social security program, not only from the standpoint of elderly retirees but also from the vantage point of today's workers.

This task takes on added importance because all Americans have a vital stake in assuring the integrity of this system. In one form or another social security touches the lives of almost every American family.

Today 30 million persons receive retirement, survivors, or disability benefits. Nearly 100 million workers will make contributions to the program in 1974. In return, they will receive credits toward benefits for themselves and their families.

These basic facts underscore the necessity for insuring that social security is built upon sound economic, actuarial, and social principles for the present as well as the future.

In recent weeks, however, scare stories have been circulated about the solvency of the social security system.

These accounts—oftentimes based upon misleading and inaccurate information—have only created needless anxiety and apprehension for millions of Americans who have contributed to social security.

The social security program—and I want to emphasize this point—can be improved. And, it should be improved. But, articles which rely upon half-truths will serve no useful purpose in our national dialog concerning the future directions for social security.

All responsible viewpoints must be presented in this debate to assure that the best possible system for all is developed. And this, of course, is a major purpose of the Committee on Aging's hearings.

In this regard, Wilbur Cohen—a former Secretary of the Department of Health, Education, and Welfare; a renowned authority on social security; and now the Dean of the School of Education at the University of Michigan—recently responded to some of the attacks.

His article, entitled "Social Security is Sound and Working," merits the attention of all Members of the Senate.

Mr. President, I commend this article to 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:

SOCIAL SECURITY IS SOUND AND WORKING

(By Wilbur J. Cohen)

The recent articles on the American Social Security System by Warren Shores are a collection of prejudicial half-truths, misstatements, and misleading comments. They are a grossly unfair and inaccurate presentation.

Their cumulative effect is to create anxiety, misunderstanding and doubt about the financial integrity of the Social Security System. These articles are vicious and unfortunate attacks on the peace of mind of millions of older citizens and other beneficiaries of the program, as well as being a collection of misleading and inaccurate statements.

The "solution" to the problems presented by Mr. Shores is the impractical idea of having Congress repeal the federal law creating our Social Security System and giving Americans the option of buying government bonds or commercial bonds to cover their retirement and disability and their survivors as social security now does for eligible persons. Everyone has this option now, but it is not a realistic alternative to the problem social security was intended to alleviate. Shores' "solution" didn't work before the depression in 1929—that's why Congress created social security in 1935—and it would not be a feasible solution to old age dependency or poverty for millions of people now or in the forseeable future.

Arthur Shores' major problem is that he apparently doesn't understand the difference between the concepts of "insurance" and "savings." The second reason that the conclusions he arrives at are inaccurate is that he mixes up and is confused by those statistics and figures which he does give to readers and then fails to give all the information and data necessary to evaluate his freak illustrations. Shores is obviously a devotee of the philosophy that "the exception proves the rule. "Let us take his charges one-by-one and show the immensity of his misrepresentations and his use of the "big lie."

1. Mr. Shores says "social security has not done any part of what it set out to do." This is a flat outright lie. If there were no social security program today, there would be 12.5 million more persons in poverty in the United States. This would be an increase of 50 percent in the number of people in poverty. There are 25 million people with incomes below the poverty line at the present time. How can Shores in good conscience claim then that social security hasn't done "any part" of what it set out to do?

SOCIAL SECURITY IS VALUABLE FAMILY PROTECTION

2. Mr. Shores has related examples of persons who could receive more in benefits by some other investment of their funds. Social Security is a government-operated insurance plan.

The essence of "insurance," whether public or private, is that some people will pay into the plan more than they receive back, some will receive back more than they paid in, and some will break even. This is in contrast to "savings" in which each person always receives back more than he paid in. Social Security was never designed to be a substitute for a savings-bank system. It was designed to be insurance.

Thus, an individual who lives to age 85, 90, or 95 years will receive back in pension payments much more than he or she paid in premiums. A person who dies the day before he or she retires will have lost all the payments.

A mentally retarded person or a retired, disabled, or deceased person may receive $50,000 or more in social security payments during his lifetime.

The widow and children of a deceased young worker may receive a total of $50,000 or $100,000 even though the payments into the social security system were only $2,000. A widow with young children can now receive over $700 a month in survivors' benefits. Moreover, these benefits are not taxable. This is a tremendous financial security for young families. Survivors' benefits under social security are frequently the only continuing monthly benefits received by most families where the worker has died.

What Mr. Shores doesn't disclose when he argues that each worker should be permitted to buy his own protection is that there is a vast difference in the cost of private life insurance among different companies in the United States. A study made by the Pennsylvania Insurance department shows that for a man age 35 the average annual cost of a straight $10,000 life cash-value insurance policy varied from $42 a year to $86 among the 50 largest companies in the nation—a 100 percent difference in cost between the lowest and highest!

What Mr. Shores also doesn't tell is whether each citizen will buy the cheapest insurance or the dearest. In social security, he or she gets the benefit of the maximum protection at the minimum cost—and at the lowest administrative costs. No private insurance company can provide the same coverage as the federal Social Security System does unless it charges the wage earner higher costs for administering the program.

Mr. Shores ignores the great advantage of social security over most private insurance and private pension plans. Social security benefits will automatically increase in the future as the cost-of-living and wages increase. This mandatory requirement has already been written into the existing federal statutes governing social security. Thus, while most insurance contracts and private plans guarantee a fixed amount of dollars, the social security plan now guarantees an inflation-proof benefit! The government-paid insurance benefits will increase in amount as the years go on. Shores tries to compare present social security benefit levels with present private insurance benefit levels in order to show that social security benefits will be inadequate in the future. By intentionally or unintentionally neglecting to tell readers that government insurance (but not private insurance) must pay more in the years ahead, it becomes obvious that all the illustrations used by Mr. Shores are basically erroneous for the future.

What Mr. Shores also forgets to tell the reader is that social security benefits are never taxable to the recipient. So when a retired worker and his wife after age 65 receives $480 a month in social security benefits, they are receiving the equivalent of approximately $600 a month in taxable income.

For instance, Mr. Shores leaves out of his articles the fact that the social security program has the lowest administrative cost of any comparable private insurance, pension

or retirement system. In 1974, the total administrative cost of the old age and survivors' benefits was 1.6 percent and for disability benefits, 4.7 percent. The total combined cost for all three types of benefits was 1.9 percent.

If the social security system saves only two percent in administrative costs each year as compared with private insurance, the savings which go into paying benefits would be $1 billion a year at the present time. What private system can compare with this? Why doesn't Mr. Shores tell about some of the values and good points of social security? His articles were directed solely at picking out a few very extreme examples and overlooking the major and overwhelming instances of comprehensive and valuable protection.

There are 30 million people receiving social security checks every month. It has not missed a payment in 34 years. It has never gone bankrupt and ceased to do business as have a number of private insurance plans. Shores also neglects to mention that some private pension plans like Studebaker and Kaiser-Frazer have failed to carry out their pension commitments. As long as social security payments are guaranteed by the federal government, I do not believe there will ever be any default in the commitments made under the social security program. Most people, but not Mr. Shores, know this.

SOCIAL SECURITY IS GOOD INSURANCE

3. Mr. Shores says the "social security system is emphatically unlike insurance." Mr. Shores doesn't give his definition of insurance so the reader is left in the dark as to what he means. Insurance is simply a system of, a large number of individuals making payments in advance into a pooled fund for certain specified risks and benefits from which pool the benefits are paid in accordance with the agreement entered into by the parties. Some beneficiaries are intended to receive more than they paid in and some less. Insurance is not savings where each saver always receives more than he originally paid in.

There are different kinds of insurance.

There is pure insurance like term life insurance in which the individual does not get any reimbursement at all if the risk death doesn't occur during a year that the policy is in force.

This is like automobile or fire insurance in which no money at all is received by the beneficiary if no hazard occurred. It is like Blue Cross or Blue Shield health insurance in which no reimbursement is made if the individual is not sick and incurs no bills. Mr. Shores implies that an insured social security beneficiary who never has the hazard occur (such as disability) is being cheated because he hasn't received any insurance benefits back.

Endowment life insurance is a combination of pure insurance and savings. It is necessary to know what kind of insurance is being purchased. Just as there are many kinds of automobiles, there are many kinds of insurance. The costs vary on the model, size, and quality purchased.

The great value of social security as a national insurance pool was best expressed many years ago by Winston Churchill.

Churchill said that social security brings the magic of the averages to the rescue of the millions. It is not a savings bank. It is low-cost insurance.

In this connection it is important to remember that among the 30 million persons who receive social security every month, 2 million are disabled persons under age 65, that nearly 5 million are children, and nearly a million are younger widows and mothers. Social security is a strong support for families in addition to its retirement income features.

It should be remembered that each individual's contribution to social security covers four different insurance coverages: Old age; death at any age; disability at any age; and hospitalization for the aged and disabled.

From the 6.85 percent paid by the employee (and an equal amount by the employer), the following allocations are made:

	Percent
Disability coverage	0.575
Hospitalization coverage	.900
Total	1.475

This leaves 4.375% for old age and survivors' (death) coverage. The survivors' insurance coverage is worth about 0.375%. Thus, an employee is paying only about 4% for old age protection and 1.85% for the other three coverages.

U.S. GOVERNMENT BONDS ARE A GOOD BUY

4. Mr. Shores says the social security trust fund is "simply a myth." What nonsense. If the United States government bonds in the social security fund are a myth, then government bonds are a myth for the banks, insurance companies, and private investors who bought them too.

The amazing inconsistency of Mr. Shores is evident when he recommends that workers be required to buy federal bonds as a substitute for social security. Why are they a myth in one case and a desirable purchase in another? Mr. Shores is just uninformed and inconsistent.

SOCIAL SECURITY IS NOT BANKRUPT

5. Mr. Shores says the "Social Security System is bankrupt." He comes to this erroneous conclusion because there is not sufficient money in the social security fund today to pay off all its obligations for the indefinite future. If this criterion is used then practically every private pension plan in the United States is also bankrupt. By this criterion, the Civil Service Retirement fund is bankrupt, so is the Railroad Retirement system, and practically all state and local public employee retirement systems.

The fact of the matter is that a governmental system does not need to be a full-reserve system such as private companies must have in accordance with state insurance laws. It is simply mischievous and misleading to label social security as bankrupt. No responsible private insurance actuary would do so and none has done so. It is only a misinformed non-expert who would make such a misstatement.

There is $40 billion in United States government bonds which back up the Social Security System. These bonds are guaranteed as to principal and interest by the federal government. They have the same value as government bonds held by banks, private insurance companies, and individuals.

DISABILITY INSURANCE

6. Mr. Shores says that a twenty-seven-year-old freight handler could buy a disability insurance benefit from a private insurance company for "about" $10 a month and get more protection than he could get from social security. He neglects to say the man would have to pass a medical examination and that if he couldn't he would be denied disability insurance coverage. He fails to point out that social security provides the disability insurance coverage to all persons without any medical examination. It covers the weak and the strong; the person with medical difficulties; the young and the older person.

Mr. Shores does not tell that the cost to the individual goes up with the hazard of his occupation and is much more for an older person. In other words, Mr. Shores does not tell the whole truth—only that little part of the iceberg above the water he wants to see.

THE RETIREMENT TEST

7. Mr. Shores at various points in his articles refers to the retirement test as the "saddest, least defensible part of social security." He refers to it as "punishing." But he doesn't tell the reader that to repeal the retirement test would cost $4 billion a year in increased taxes in the beginning and this would mount in future years.

Even more, Mr. Shores doesn't tell that all of the $4 billion a year would go to about 3 million beneficiaries while 27 million beneficiaries would not get a single cent more!

It seems appropriate and reasonable for a retirement system to provide that payments are based upon some test of being retired. Why should contributions by all employers and all workers be increased in order to pay benefits to persons not retired and who in many cases are earning as much as they did before?

Mr. Shores omits from his discussion all these significant considerations which the Congress has carefully weighed. If Mr. Shores is in favor of repeal of the retirement test, why wasn't he honest enough to recommend additional taxes of $4 billion a year to cover the cost? It's easy to criticize a provision if you don't take the responsibility of figuring out how to pay for the alternative?

Mr. Shores incorrectly uses out-of-date figures relating to the retirement or earning test. He refers to the test as $140 a month. At the present time it is $200 a month and the law provides for automatic increases in this amount as prices rise. Mr. Shores also incorrectly describes the effect of this test on a widow with two children since he neglects to consider and mention the fact that the children's benefits will continue to be payable even if the mother goes to work full time. Moreover, he fails to point out that if the mother has three or more children, her employment would not reduce the total family payment whatsoever. These are the kinds of omissions which make Mr. Shores' articles incomplete, erroneous, and misleading.

SOCIAL SECURITY ENCOURAGES THRIFT

Mr. Shores doesn't really understand the objective of the Social Security System as established by the Congress. The idea was not to provide a completely adequate benefit for everyone. Congress wished to give individuals a basic floor of protection on which individuals could build a supplemental protection by additional savings, investments, and work. Congress wanted to leave individuals the opportunity to utilize the private enterprise system to build greater security. Thus, the Social Security System gives individuals an incentive to save and work to improve their economic security. It would be foolish to repeal a tried-and-tested system for the Shores-Friedman kind of plan which would put the younger and disabled worker at a great disadvantage.

Mr. Shores says that as a result of social security "saving is discouraged." But he doesn't give any documentation to this allegation. The reason he doesn't document it is because he can't. All the evidence is that savings of the American people have remained at a high level. If savings is or will be discouraged, it is primarily due to inflation. I challenge Mr. Shores to prove his point. If anything, private insurance companies will tell you that social security has served to stimulate purchase of additional protection.

PROPOSALS FOR IMPROVEMENT

I believe that the Social Security System needs further improvement. The system has been improved by the Congress over the past 40 years. I am sure it will continue to be improved.

However, I am opposed to the radical solution proposed by Mr. Shores which throws

the baby out with the bath. I believe we should continue the basic elements of the present system which are:

A contributory, earnings-related system which builds upon individual responsibility for meeting costs and encourages thrift and incentives.

A legal right to benefits which is backed by a guarantee from the federal government and legal recourse to the courts for payment.

A nationwide system which assures a maximum degree of protection at the minimum administrative cost.

The changes which I believe are needed in the Social Security System and which I believe are practical and realistic are:

1. Refund of social security contributions to persons whose incomes are below the poverty line as advocated by Senator Russell Long, the Chairman of the Senate Committee on Finance.

2. Reduction in the social security tax rate from 5.85 percent to 5 percent and an increase in the maximum earnings limitation from the present $13,200 a year to cover all earnings for the employer contribution and to $25,000 a year for the employee contribution.

3. Increase in the retirement test from $2400 a year to $3200 a year which is above the present poverty line for an aged couple. This amendment is supported by many members of Congress.

4. Revision of provisions which discriminate against women by making widowers and husbands eligible for benefits on the same basis as widows and wives as proposed by Congresswoman Martha Griffiths of Detroit.

5. Coverage under social security of all household employment so that women will earn benefits in their own right and can receive them whether they are married, divorced, remarried, or single.

6. An increase in the low benefits being paid to many older people.

7. Reduction in the waiting period for disability insurance benefits to three months from the present five months.

8. Establish the Social Security Administration as an independent Board as it was in 1935. Make the Board independent from the Budget Bureau, take the receipts and expenditures out of the Consolidated Budget, and make the Board report directly to Congress. Over 33 Senators are supporting this idea along with Chairman Wilbur D. Mills of the House Committee on Ways and Means.

Mr. Shores' only direct quotation in his articles is by Professor Milton Friedman, the leading proponent of a radical solution to changes in social security. Mr. Shores did not seem to consult or quote from anyone in Congress like Chairman Wilbur D. Mills, or Russell Long, who helped design the present system. He quotes an unnamed "spokesman for the Illinois Department of Insurance" so it is impossible to check the source or meaning of his quotations.

SHORES' VIEWS ARE NOT SHARED BY THE EXPERTS

There are at least 25 other experts on social security in the United States who do not share Professor Friedman's ideas or who would be willing to rebut the statements made by the unknown "spokesmen." Why weren't these distinguished experts consulted or quoted to give a fair presentation of differing views. Obviously Mr. Shores doesn't believe in giving equal time to his opponents.

For those who wish to read about different points of view, here are some references:

An American Philosophy of Social Security: Evolution and Issues by J. Douglas Brown, Princeton University Press, 1972.

Future Directions in Social Security, Hearings before the Special Senate Commitee on Aging, July 1973, Washington, D.C.

Social Security: Universal or Selective: A debate between Milton Friedman and Wilbur J. Cohen, American Enterprise Institute for Public Policy Research, Washington, D.C. 1972.

ETHNIC STUDIES GRANTS FOR FISCAL YEAR 1974

Mr. SCHWEIKER. Mr. President, for the information of my colleagues, I ask unanimous consent that a breakdown, by State, of eligible applications and grants for the ethnic heritage studies program—Title IX, Elementary and Secondary Education Act of 1965—for fiscal year 1974, and a list of all grantees, be printed in the RECORD at the conclusion of these remarks.

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

Ethnic heritage studies program—Breakdown of proposals received and funded by State

	Received	Funded
Alabama	13	1
Alaska	8	1
Arizona	16	0
Arkansas	5	0
California	88	3
Colorado	12	1
Connecticut	16	1
Delaware	5	0
District of Columbia	37	2
Florida	17	1
Georgia	13	0
Hawaii	8	1
Idaho	3	0
Illinois	54	3
Indiana	12	1
Iowa	9	1
Kansas	11	0
Kentucky	3	0
Louisiana	8	0
Maine	4	0
Maryland	11	0
Massachusetts	36	3
Michigan	34	1
Minnesota	19	2
Mississippi	6	0
Missouri	6	1
Montana	4	0
Nebraska	2	0
Nevada	2	0
New Hampshire	2	0
New Jersey	33	2
New Mexico	21	1
New York	138	5
North Carolina	16	0
North Dakota	8	0
Ohio	27	1
Oklahoma	14	0
Oregon	5	1
Pennsylvania	42	3
Puerto Rico	4	0
Rhode Island	4	1
South Carolina	5	1
South Dakota	11	1
Tennessee	14	0
Texas	24	1
Utah	6	0
Vermont	3	0
Virginia	10	1
Virgin Islands	2	0
Washington	18	0
West Virginia	2	0
Wisconsin	15	1
Wyoming	1	0
Guam	1	0
Totals	887	42

TITLE IX, ELEMENTARY AND SECONDARY EDUCATION ACT: THE ETHNIC HERITAGE STUDIES PROGRAM, FISCAL YEAR 1974

The following is the list of applications receiving awards as a result of the competitive process under the Ethnic Heritage Studies Program. The organizations listed below will be cooperating with local ethnic associations or groups. In some cases, specific organizations are shown.

ALABAMA

Alabama Center for Higher Education, 2121 8th Avenue North, Suite 1520, Birmingham, Ala. 35203 ---------- $30,000

Black studies research and demonstration project

ALASKA

Alaska State-Operated Schools, 650 International Airport Road, Anchorage, Alaska 99502------- $60,000

With the cooperation of: Anchorage Community College & Alaska Native Foundation.

Ethnic studies materials for Alaskan Native children and teachers of Indian children

CALIFORNIA

Bakersfield College, 1801 Panorama Drive, Bakersfield, Calif. 93305-- $70,000

With the cooperation of: California State College, Bakersfield & Bakersfield City School District.

Project MECHICA: Materials development program in chicano studies

California State Department of Education, Bureau of Intergroup Relations, 721 Capitol Mall, Room 634, Sacramento, Calif. 95814 ---------- $70,000

California ethnic heritage program

Japanese American Citizens League, 22 Peace Plaza, Suite 203, San Francisco, Calif. 94115 ---------- $60,000

Contributions of Japanese Americans to American life: Curriculum development program

COLORADO

Social Science Education Consortium, Inc., 855 Broadway, Boulder, Colo. 20302---------- $45,000

With the cooperation of: The Council of State Social Studies Specialists, The Social Studies Supervisors Association (SSSA), and The College and University Faculty Association.

Analysis and dissemination of ethnic heritage studies curriculum materials

CONNECTICUT

University of Connecticut, Department of Sociology, Storrs, Conn. 06268 ---------- $100,000

Intergroup relations and ethnicity: The peoples of Connecticut

DISTRICT OF COLUMBIA

Frederick Douglass Museum of African Art, 316-318 A Street NE., Washington, D.C. 20002---- $60,000

Ethnic heritage studies program with an emphasis on Afro-Americans

National Education Association, Civil and Human Rights, Washington, D.C. 20036, total with NJEA ---------- $90,000

Jointly with: New Jersey Education Association.

The NEA/NJEA multi-ethnic racial curriculum development program

FLORIDA

Florida State University, Science and Human Affairs Division, 302 Education Building, Tallahassee, Fla. 32306---------- $40,000

With the cooperation of: The American Hellenic Education Progressive Association,

the Daughters of Penelope, & the Comparative and International Education Society.

A project in multi-cultural learning: Greek American contribution to the American Society

HAWAII

University of Hawaii, College of Education, Department of Educational Foundations, 1776 University Avenue, Honolulu, Hawaii 96821 ---------- $55,000

Ethnic Resources Center for the Pacific

ILLINOIS

Illinois State Department of Education, Superintendent of Edution, 188 West Randolph Street, Chicago, Ill. 60601, total with University of Illinois ---------- $170,000

Jointly with: University of Illinois at Chicago Circle, P.O. Box 4348, Room 3030–ECB, Chicago, Illinois 60680.

Illinois/Chicago project for inter-ethnic dimensions in education

Southern Illinois University at Carbondale, Ill. 62901 -------- $19,000

With the cooperation of: The Association for the Advancement of Baltic Studies, the Latvian Foundation, Inc., and the Latvian Theatre Association in America.

Drama and theater of Baltic-American youth

INDIANA

Indiana University Foundation, University at South Bend, P.O. Box F, Bloomington, Ind. 47401 $40,000

Ethnic heritage study program

IOWA

Kirkwood Community College, Arts and Science Division, 6301 Kirkwood Boulevard, SW., Cedar Rapids, Iowa 52406 ---------- $25,000

General ethnic heritage and specific Czech heritage curriculum model development

MASSACHUSETTS

Boston Children's Museum, Jamaicaway, Boston, Mass. 02130 $40,000

Ethnic discovery project

Brandeis University, Philip W. Lown Graduate Center for Contemporary Jewish Studies, Waltham, Mass. 02154 ---------- $80,000

Center for Contemporary Jewish Studies program for Jewish ethnic heritage studies

Harvard University, Fellows of Harvard College, Harvard University Press, 1350 Massachusetts Avenue, Cambridge, Mass. 02138 ---------- $45,000

Harvard Ethnic Encyclopedia: Stage I

MICHIGAN

Michigan Southeast Regional Ethnic Heritage Studies Center, 163 Madison Avenue, Detroit, Mich. 48226 ---------- $170,000

Ethnic heritage studies program in southeastern Michigan

MINNESOTA

Gustavus Adolphus College, Scandinavian Studies, St. Peter, Minn. 56082 ---------- $25,000

With the cooperation of: American Scandinavian Foundation.

Expanded program in Scandinavian studies

Mankato State Colege, Minorities Groups Studies Center, Mankato, Minn., 56001 ---------- $60,000

A model program in multi-ethnic heritage studies

MISSOURI

Washington University, Lindell & Skinker Boulevards, St. Louis, Mo. 06130 ---------- $50,000

Ethnic heritage studies in urban neighborhoods

NEW JERSEY

New Jersey Education Association, Instruction Division, Trenton, N.J. 08608, total with NEA $90,000

Jointly with: National Education Association.

NEA/NJEA multi-ethnic/racial curriculum development program

Rutgers University, State University of New Jersey, 10 Seminary Place, New Brunswick, N.J. 08903 ---------- $60,000

The Institute of Ethnic and Intercultural Education

NEW MEXICO

Cuba Independent Schools, P.O. Box 68, Cuba, N. Mex. 87013 ---- $11,000

With the cooperation of: KNME–TV Channel 5, the Federation of Rocky Mountain States, and its Satellite Technology Demonstration Project.

Cuba schools ethnic heritage project

NEW YORK

Anti-Defamation League of B'nai B'rith, Program Division, 315 Lexington Avenue, New York, N.Y. 10016 ---------- $65,000

Task force to define cultural pluralism to develop and test strategies for its effective teaching

City University of New York, CUNY Research Foundation, Convent Avenue at 138th Street, New York, N.Y. 10031 ---------- $60,000

Curriculum development program in comparative university

New York State Education Department, Bureau of Social Studies Education, Washington Avenue, Albany, N.Y. 12224 ---- $70,000

Italo-American curriculum studies

Buffalo City Schools System, 712 City Hall, Buffalo, N.Y., 14202, total with University College at Buffalo ---------- $75,000

Jointly with: New York State University College at Buffalo-Research and Development Complex, 1300 Elmwood Avenue, Buffalo, N.Y. 14222.

Ethnic heritage curriculum development project

OHIO

Cleveland Public Schools, 1380 East Sixth Street, Cleveland, Ohio 44114 ---------- $170,000

With the cooperation of: Greater Cleveland Intercollegiate Academic Council on Ethnic Studies.

The ethnic heritage studies development program

OREGON

Portland Center for Urban Education, 0245 S.W. Bancroft St., Portland, Oreg. 97201 ---------- $45,000

Increasing the understanding of multiethnic heritage

PENNSYLVANIA

Duquesne University, Tamburitzans Institute of Folk Art, 1801 Boulevard of the Allies, Pittsburgh, Pa. 15219 ---------- $65,000

Development of ethnic heritage studies kit

King's College, 133 North River Street, Wilkes-Barre, Pa. 18711, total with University of Scranton ---------- $60,000

Jointly with: University of Scranton, Ethnic Studies Program, Scranton, Pa. 18510.

The study of ethnic minorities in northeastern Pennsylvania: Lackawanna County: University of Scranton/Luzerne County: King's College

RHODE ISLAND

Rhode Island Department of Education, 199 Promenade Street, Providence, R.I. 02908 -------- $50,000

With the cooperation of: Providence School Department & the Department of Languages at the University of Rhode Island.

The ethnic heritage studies program of Rhode Island

SOUTH CAROLINA

Charleston County School District, Division of Instruction, 3 Chisholm Street, Charleston, S.C. 29401 ---------- $30,000

The ethnic history of South Carolina program

SOUTH DAKOTA

South Dakota Department of Education and Cultural Affairs, State Capitol Building, Pierre, S. Dak. 57501 ---------- $45,000

Indian ethnic heritage curriculum development project

TEXAS

Southwest Educational Development Laboratory, 211 East Seventh Street, Austin, Tex. 78701 $50,000

Ethnic heritage studies program: Czechs, Poles, and Germans in Texas

VIRGINIA

Dilenowisco Educational Cooperative, Wisconsin County School Board, Media Services, 1032 Virginia Avenue, Norton, Va. 24273 $50,000

Ethnic heritage studies program for five school divisions in Appalachia

WISCONSIN

State Historical Society of Wisconsin, 816 State Street, Madison, Wis. 53706 ---------- $45,000

Ethnic heritage studies: Old World Wisconsin and ethnic America

Total ---------- $2,375,000

To acquire more information concerning the Ethnic Heritage Studies Program, please write or call—Ethnic Heritage Studies Branch Division of International Education, U.S. Office of Education, ROB No. 3, Room 3907, 400 Maryland Avenue, S.W., Washington, D.C. 20202, 202–245–9506 or 202–245–2262.

UNITED STATES-CUBAN RELATIONS

Mr. PELL. Mr. President, in this era of détente, the continuing cold war with Cuba is an anachronism. The President of the United States has traveled across the world in hopes of improving relations with the Soviet Union and the People's Republic of China; yet we continue to ignore and attempt to isolate our neighbor off the coast of Florida.

American hostility toward Cuba is characterized by the 1962 Cuban resolution, a document that in spirit belongs to an outdated age of confrontation diplomacy and that in substance is no longer applicable. The resolution attempted to isolate Cuba from the rest of the hemisphere; increasingly it is not Cuba but the United States that is becoming isolated by its unwillingness to

reassess its policy. It was for this reason that last December I introduced a bill (S. 2802), to repeal the resolution as a necessary first step on the path of normalizing our relations with Cuba. A modified form of that legislation, calling for a review of United States-Cuban policy was adopted by the Senate as part of the USIA-State Department authorization bill.

I am heartened by the growing recognition that change in our Cuban policy is overdue.

Recently, the distinguished New York Times columnist, C. L. Sulzberger, presented a perceptive analysis of the compelling arguments for broadening the application of détente, including our relations with Cuba. I ask unanimous consent that Mr. Sulzberger's column, "Détente Around the Edges?" from the New York Times of July 13, 1974, be printed in the RECORD.

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

DÉTENTE AROUND THE EDGES?

(By C. L. Sulzberger)

PARIS.—I cannot understand why the United States, so earnestly seeking détente with all the important power blocs pays so little apparent attention to small sores festering along the edges.

One would think a nation resolved to work out accommodations with the Russians, the Chinese, the Arabs and those Europeans with whom we have had a tendency to bicker, would also take the tiny steps required to regularize other quarrels on a miniature scale.

Specifically I have in mind the continuing cold war between the U.S.A. and Cuba, which doesn't seem to have much point in an era of relaxing tensions, and also the continuing failure to arrange diplomatic relations with those two small but strategically located states, Outer Mongolia and Albania.

Cuba is the most crucial of the three nations mentioned because of its relationship to continental America, its Caribbean position and proximity to the Panama Canal, its association with anti-U.S. propaganda and guerrilla movements elsewhere, and its symbolic implication as the locus of the nuclear age's greatest superpower confrontation.

A decade ago I asked Fidel Castro if he foresaw improvement of relations. He said: "This question depends on the relations of the United States with all Socialist countries and we are not interested in improving relationships for ourselves alone.

"We now receive aid from only one side for the simple reason that there is only one side to help us. It is practically impossible that the U.S.A. should help us because the U.S.A. would demand ideological concessions and we will never be prepared to make concessions of that sort. . . .

"I think it will require many years before diplomatic relations are restored. I don't think conditions exist in the United States that permit positive steps. I believe an improvement of relations must be regarded as a long-term affair."

Yet "many years" have now passed. United States relations with virtually "all Socialist countries" have improved. No "ideological concessions" (if one excepts our suggestions that Russia ease up on dissidents and would-be emigrants) have been demanded.

Moreover, the hatred has seeped out of Washington-Havana debates. Fidelismo is no longer regarded as an immediate menace to Latin America. And Moscow doesn't like indefinitely financing the sagging Cuban economy.

The mini-crisis of 1970–71 over a reported Soviet submarine base at Cienfuegos has subsided into a cat-and-mouse game where each side (sometimes mischievously) toys with the other.

One would therefore think this is a propitious time to do something useful. Indeed, the State Department has quietly set in motion "preliminary steps for change."

But the hard truth is that so long as Bebe Rebozo remains President Nixon's intimate friend, the Department doubts whether it can ever get a White House go-ahead for serious negotiations. Mr. Rebozo is closely tied to some particularly anti-Castro refugees around Miami and Mr. Nixon is said to feel very deeply on the Cuban affair.

Thousands of miles distant from this impasse are the separate-but-equal cases of Albania and Outer Mongolia. They are separate—one on an inlet of Mediterranean Europe and the other at Asia's northeast end—but they are equal as favored clients, respectively, of the Chinese and Soviet Governments.

Peking does everything it can to help its only true European ally while Moscow makes massive use of the Mongols by, among other things, stuffing their broad land with military equipment and Soviet troops with which to menace China.

Clearly the logical thing is for Washington to use the present quest for global détente to open simultaneously diplomatic relations with each of these satellites, thus balancing Moscow's pleasure at our recognition of Mongolia with Soviet displeasure at our recognizing Albania—and the reverse for Peking.

The two weak nations in question are politically and strategically of great interest as observation points for the United States. From Albania American diplomats might sniff out, from a new vantage point, additional information about Soviet machinations against neighboring Yugoslavia. And from Mongolia they might be in a better position to check tension along the Sino-Russian frontier and the seriousness of Moscow's intentions against Peking.

Thus, both in the name of détente—very much the *mot d'ordre* nowadays—and in the name of diplomatic horse sense, it might be well to start talks with all three of the countries mentioned with a view to regularizing what remains a foolishly irregular situation.

SOUTHERN ILLINOIS UNIVERSITY CONCERT CHORALE

Mr. PERCY. Mr. President, I wish to extend heartiest congratulations to the Southern Illinois University Concert Chorale for recently winning the international choral competition in Spittal, Austria. In winning the coveted Spittal choral competition, the group became the first American chorus ever to win this competition.

Fortunately, we in the Washington area will have the opportunity to hear this outstanding group this weekend as they will be performing at 1 p.m. on Sunday, July 21, in a free concert in the Grand Foyer of the John F. Kennedy Center for the Performing Arts sponsored by Alliance for Arts Education "Showcase" series. I hope that many of us will have the opportunity to hear this outstanding group from the Edwardsville Campus of Southern Illinois University this Sunday.

EARLY SCREENING

Mr. MONDALE. Mr. President, nearly 7 years ago, the Congress approved landmark legislation designed to assure that every poor child in this country receives the proper medical examinations and treatment. This effort is known as the early and periodic screening, diagnosis, and treatment program.

I have been deeply disturbed at the apparent unwillingness of the Department of Health, Education, and Welfare to fully implement the program. It took more than 2½ years and the filing of a suit in court to even get draft regulations issued.

In 1972—when HEW tried to further postpone and dilute EPSDT—I and some of my colleagues fought in Congress to assure that all the children covered by the program would receive the services to which they were entitled. The result of our efforts was a penalty clause in the 1972 Social Security Amendments. Specifically, the amendments required that States which did not implement EPSDT would be subject to a penalty of 1 percent of their AFDC funds.

A most informative article in the June 29 issue of National Journal informs us that EPSDT is still a matter of conflict and dispute within HEW—and the ones who are suffering are the 13 million children eligible for services. I request unanimous consent that a copy of this article be printed in the RECORD.

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

HEALTH REPORT/HEW, STATES' CHILD CARE RECORD MAY AFFECT AGENCY'S INSURANCE ROLE

(By John K. Iglehart)

Nearly seven years ago, Congress directed the Health, Education and Welfare Department to design a plan for finding poor children with medical problems and providing treatment for them.

Two years ago, HEW still had not come up with a workable program and Congress imposed a July 1, 1974, deadline on the department, hoping to force faster action.

But despite the personal interest and involvement of HEW Secretary Caspar W. Weinberger, the department has no hope of meeting the deadline.

And its inability to cope with a relatively small slice of the total national health problem is raising doubts on Capitol Hill that it would deal effectively with a national health insurance program.

The program in question is Early and Periodic Screening, Diagnosis and Treatment (EPSDT), a small element in HEW's vast array of health missions.

It is difficult to pinpoint any single reason for the department's failure to meet the deadline.

Part of the delay has been caused by internal HEW bickering over the best approach. States partly are responsible becasue of their concern that they cannot afford a fully implemented program, which eventually could cover as many as 13 million children.

Either way, the delay has hurt HEW on Capitol Hill.

The department's unwillingness to persuade states to comply with the law raises questions about the department's ability to launch a national health insurance plan, a medical task of far greater magnitude.

The unwillingness of some states to implement EPSDT largely because of potential

costs works against the Administration's argument that states should play a major role in administering and monitoring national health insurance.

"The performance of HEW and the states on EPSDT doesn't leave much to your imagination on how they might perform under health insurance," said an aide to Sen. Abraham Ribicoff, D-Conn., who was a leading sponsor of the child health plan in 1967.

"For all intents and purposes, Congress has given up on HEW's implementation of EPSDT within the context of the present medicaid program," said a House Ways and Means Committee official. "Congress now is prepared to federalize medicaid."

In its health insurance legislation (HR 12684, S 2970), the Administration has called for establishing two financing programs, one for the working population and another for non-working and low-income groups.

The states would play a key role in financing the second program, a task that would give them more incentive to control costs, according to the Administration analysis.

Sen. Russell B. Long, D-La., chairman of the Senate Finance Committee, and Rep. Wilbur D. Mills, D-Ark., chairman of the House Ways and Means Committee, are advocating health insurance bills that call for federal administration of the program. States would have only a secondary role.

Mills told Weinberger at a health insurance hearing April 24:

"You are going to have a hard time convincing me that any state has administered medicaid as well as the Social Security Administration has administered medicare," Mills said. The EPSDT program is a part of medicaid.

Standing: On paper at least, the EPSDT program enjoys priority standing with Weinberger. He has emphasized his interest in it at staff meetings and voiced concern in private conversations with ranking department officials that HEW's programs may be overemphasizing the older population at the expense of the young.

Moreover, implementation of EPSDT is one of the Secretary's program objectives for fiscal 1974.

In reality, though, the department never has committed the resources necessary to aid or prod states to implement the program. A telling statistic is the number of staff members which HEW has assigned to the task.

Seven professional staffers work on EPSDT in Washington, but four have decided to leave or have left HEW. In the department's 10 regional offices, one staffer, on the average, is responsible for working with the states in each region.

HEW never has been able accurately to estimate how much states spend for EPSDT because the funds flow from a general pot of medicaid money that will total in excess of $10 billion in fiscal 1975. The department does estimate that 30 per cent of these monies are spent for children's health services of all kinds.

Under the program, which was first authorized by the Social Security Amendments of 1967 (81 Stat 821), states must inform all recipients of Aid to Families With Dependent Children (AFDC) of "the availability of child health screening services." The eligible child population is estimated to number 13 million.

States also must "provide or arrange for the provision of such screening services" and "arrange for . . . corrective treatment." The services are financed under a medicaid formula which obligates the federal government to pay from 50 to 83 per cent of the cost; the states pay the rest.

PRESSURES

Pressures are mounting on HEW to account for its efforts to implement EPSDT six and a half years after Congress authorized creation of the program.

Sen. Ribicoff asked Weinberger in a letter dated June 11 to describe in detail what the department has done to implement the program.

Further, court suits have been brought against 10 states, claiming they have failed to implement the program fully. The states are California, Colorado, Connecticut, Illinois, Indiana, Michigan, New York Ohio, Pennsylvania and Vermont.

Thus, with hope of meeting the statutory deadline of July 1 gone, with Ribicoff's expressed interest, and with the pending court suits, the department is going to have to develop a strategy for enforcing the stiff penalty which Congress mandated as a part of the Social Security Amendments of 1972 (86 Stat 1329).

Under the provision, HEW "shall" reduce by 1 per cent the federal payment to the Aid to Families with Dependent Children (AFDC) program of any state which fails to implement the EPSDT program.

With federal expenditures of $4.1 billion provided for the AFDC program in the President's fiscal 1975 budget, the financial pain of a 1 per cent reduction in a state's payment could be substantial.

PROBLEMS

Full implementation of EPSDT has been stymied by a number of factors, the most important being concern at HEW and in the states over the potential cost of screening some 13 million eligible children for medical ailments and then providing corrective services.

States

The federal-state medicaid program itself has been a significant impediment to the full implementation of EPSDT. Although financed primarily with federal dollars, medicaid really is a state program, or, more accurately, 50 state programs.

Within general federal guidelines, states select the kind and amount of services they wish to provide, determine the groups eligible for assistance, dictate the standards healthcare providers must follow, set the levels of reimbursement and administer the program.

The commitment that states have made to the medicaid program varies widely. California and New York offer a broad range of benefits to medicaid recipients. In New York, the medicaid budget now exceeds that of the budget for aid to needy children (AFDC).

A number of states offer only the minimum range of benefits required by law: inpatient and outpatient hospital care, skilled nursing home care, physician care, home health services, laboratory and X-ray services, family planning services and screening and treatment of individuals under the age of 21.

Although EPSDT is one of medicaid's mandatory services, states have implemented it with the same varying degrees of enthusiasm that they have shown for the total medicaid program.

SRS

The child health care program is only one of several that has been hindered by bureaucratic warfare between the director of the Social and Rehabilitation Service (SRS) and his career staff.

SRS Administrator James S. Dwight Jr. has established priorities which feature efforts to improve management of the welfare system and to purge the public assistance rolls of ineligible recipients of welfare funds. Dwight's prescription includes relentless budget cutting, both within SRS and in the programs it administers.

The SRS career staff has a totally different set of priorities, which favor liberalizing the agency's programs so that more, rather than fewer, low-income families receive federal help.

The conflict between Dwight and the SRS bureaucracy has generated turmoil within the agency. Staff morale is low and a number of recent resignations have resulted, including those of Howard N. Newman, medicaid commissioner, Karen F. Nelson, medicaid's chief of program, planning and evaluation, Joseph Manes, medicaid's long-term care specialist; and Barney F. Sellers, head of EPSDT.

Congressional discontent with Dwight's stewardship of SRS also is mounting. The best reflection of it was in the passage May 24 by the House of a bill (HR 14225) that would remove the Rehabilitation Services Administration, the most popular SRS program, from that agency and place it in Weinberger's office. The vote was 400–1.

Earlier in the year, Congress removed the Administration on Aging from SRS and placed it in the Secretary's office because, in the view of legislators, Dwight's support of the program was weak.

EVOLUTION

The history of the EPSDT program is a textbook example of what happens to a program which Congress authorizes—and then rarely tends to—and to which the executive branch never fully commits itself.

The problems of a lack of financial resources, an absence of available screening services and the inability of states effectively to link eligible children with services which are available all have stood in the way of fulfilling a commitment which President Johnson first articulated in a message to Congress on Feb. 8, 1967.

Mr. Johnson outlined a 12-point welfare program which included a commitment to "expand our programs for early diagnosis and treatment of children with handicaps."

The President noted that nearly 500,000 children were receiving treatment at that time under HEW's health program for crippled children, but he said "more than twice that number need help."

"The problem is to discover, as early as possible, the ills that handicap our children. There must be a continuing follow-up and treatment so that handicaps do not go neglected," Mr. Johnson said.

EPSDT was sold to the President by former HEW Secretary (1968–69) Wilbur J. Cohen, when he was the department's undersecretary.

Chairman Mills scheduled hearings before the Ways and Means Committee a week after the message. And by Aug. 17, the House had passed the Social Security Amendments of 1967, which included a provision that required states to screen, diagnose and treat the medical ailments of children of low income families starting July 1, 1969.

The Senate Finance Committee approved similar legislation and the program cleared Congress on Dec. 15 of that year. President Johnson signed the bill into law Jan. 2.

HEW dragged its feet in developing regulations to implement the program. But two and a half years later, the former SRS administrator, John D. Twiname, proposed "tentative" regulations for EPSDT which interpreted the law quite broadly.

The regulations stipulated that states were to provide screening services for all eligible children under 21. If ailments were found, the states were obligated to correct them regardless of whether the necessary treatment was a service normally provided under the medicaid program.

States strongly objected to the proposed regulations, arguing that the comprehensiveness of the services required would have a dramatic impact on state budgets.

As a result, HEW rewrote the regulations and watered them down. The new regulations instructed states to provide services to children that normally were a part of medicaid benefits which they offered.

HEW also said that states were obligated

only to screen, diagnose and treat children under age six at the start, eventually expanding the program to serve all children under 21 years.

The Senate Finance Committee gave its blessing to the department's more restrictive interpretation of the law by including a provision in the Social Security Amendments of 1970 which conformed with the proposed regulations. These amendments, however, never became law.

Finally, almost four years after President Johnson signed into law the Social Security Amendments of 1967, former HEW Secretary (1971–1973) Elliot L. Richardson approved EPSDT regulations on Nov. 4, 1971, to become effective 90 days later.

Congress showed its concern over the lack of movement on the part of HEW and the states to implement EPSDT when it approved as part of the Social Security Amendments of 1972 a provision imposing a tough penalty on jurisdictions that did not meet the statutory requirements.

But, on the whole, Congress has paid little attention to the program. Besides Ribicoff's letter, the most recent expression of congressional interest in EPSDT was voiced by Rep. David R. Obey, D.-Wis., a member of the House Appropriations Subcommittee on Labor-HEW.

At a hearing April 24, Obey pressed Dwight to explain why HEW's implementation of EPSDT never has gotten off the ground.

CONFLICT

HEW policy makers always have been at odds over the degree to which the department should commit itself to implementing the EPSDT program. There are essentially two schools of thought on the question.

One school advocates an aggressive approach to implementation, "beating the bushes to link the children with the services," said one HEW official who supports this approach.

The other school frowns on such tactics and maintains that HEW should adopt a passive role, not going out of its way to advertise the program and not forcing states to implement it fully.

The two schools clashed last year through internal department memoranda and the result has been a middling approach to the implementation of EPSDT.

Newman memo

The seeds of conflict were planted by a memorandum dated Dec. 12, 1973, from medicaid commissioner Newman and Saul R. Rosoff, acting director of the Office of Child Development, to their program chiefs in HEW's 10 regional offices.

Newman and Rosoff announced that they had agreed to fund some 200 demonstration projects that would utilize private, nonprofit Head Start agencies "in making EPSDT services available to medicaid eligible children ages 0–6."

Newman and Rosoff noted that the medicaid and Head Start programs had "common bases" which could facilitate implementation of the EPSDT program. They continued:

"Both agencies serve low income families. Both are concerned with continuity of health care and have the similar objective of integrating services provided through all available state and local resources. These similarities set a common frame of reference that can generate a wide range of local collaborative activities. Therefore, medicaid and Head Start are initiating a collaborative effort."

Although the language was bureacratic, Newman and Rosoff were saying that HEW would institute an aggressive program that would seek out low-income youngsters to undergo medical screening and receive corrective services, if necessary.

"Head Start will refer potentially eligible Head Start children to medicaid for enrollment and medicaid will pay for needed health services as required by EPSDT regulations," the memorandum said.

Dwight rebuff

SRS Commissioner Dwight learned of the Newman-Rosoff memorandum some weeks after it had been sent to the department's regional offices. Several states, a HEW staffer said, including Connecticut and Texas, had expressed concern to Dwight that the new EPSDT-Head Start project would force these jurisdictions, against their will, to expand the screening program.

On Jan. 10, 1974, Dwight wired SRS's regional commissioners: "Disregard the 12–12–73 memorandum from Howard Newman and Saul Rosoff, 'collaboration between selected Head Start grantees and state local medicaid agencies for delivery of EPSDT services.' That memorandum has not received SRS clearance and should be considered only as a recommendation to me."

Dwight also asked regional commissioners to comment on the Newman-Rosoff proposal. One month later, he issued another memorandum to SRS regional commissioners which essentially outlined the passive approach toward implementation of the EPSDT program.

Dwight said that "SRS has a primary interest and obligation under the law to insure the availability of EPSDT services," but he maintained that the statute does not require the kind of aggressive outreach program that Newman and Rosoff envisioned.

"The federal government will not directly engage in outreach and will not require any state to engage in outreach to secure additional eligibility for the Title XIX (medicaid) program," Dwight said in his memorandum, dated Feb. 14. "This is a prerogative and a choice which should be strictly limited to the states. The states are the operator of Title XIX and their choice determines the scope of service and eligibility for Title XIX."

Dwight directed that the "primary emphasis" of the 200 Head Start demonstration projects be to make EPSDT services "available to medicaid eligible children who are also enrolled in Head Start" rather than encouraging these children to enlist in the program.

But recognizing, as Dwight put it, that "outreach is inevitable in such a project," he directed that state medicaid directors and Governors would have to approve individual demonstration projects "before this activity is initiated in any state."

Dwight oversees medicaid and SRS' other programs while adhering to a view that for HEW to prod states to take actions they essentially do not want to take is an unproductive exercise.

"I have an affinity for how to get states to do something—otherwise I have wasted five years of my life," Dwight said in an interview. "If we start dictating procedures to the states then we will get ourselves in trouble."

Dwight came to Washington in 1972 to work as an associate director of the Office of Management and Budget. Before that, he served in California as a deputy finance director in the administration of Gov. Ronald Reagan, R.

Dialog

Dwight's plan for limited implementation of the program, as outlined in his Feb. 14 memo and as evidenced in the number of people he has assigned to the task, is the subject of mounting debate within HEW.

The issue has been a topic of discussion at two of the Secretary's recent management meetings. Weinberger regularly holds such sessions to keep track of objectives which HEW's agencies establish through a system of management that the Administration has adopted in most executive departments.

The system is known as management by objective (MBO). Under MBO, the departments each year must set objectives and, once they are approved by the Office of Management and Budget, mold their operations to accomplish the stated goals.

Weinberger meetings

At the Secretary's management meeting Jan. 15, Stanley B. Thomas Jr., assistant HEW secretary for human development, brought up the issue which had arisen over utilizing Head Start grantees to implement EPSDT.

Dwight explained that he had rescinded the Newman-Rosoff memo because of complaints from a number of states about the use of private Head Start grantees as an outreach vehicle for state-run EPSDT programs.

The ensuing discussion revealed that the key issue was the extent to which the availability of EPSDT services should be advertised by HEW, and thus generate additional demands on state medicaid programs without state consent.

Weinberger concluded the discussion by directing Newman, Rosoff and Dwight to reconcile their differences or, failing that, submit a memo to the Secretary on the issues involved.

The concern expressed by Thomas about the implementation of the EPSDT program was echoed two and a half months later by Bernice L. Bernstein, director of HEW's New York regional office, at another management meeting March 28.

Dwight led off the discussion on EPSDT by reporting that his agency had been overly optimistic in setting a goal of screening two million children in fiscal 1974. A more realistic estimate, Dwight said, would be the screening of from 1.2 million to 1.4 million children.

At that point, Mrs. Bernstein, who was speaking for all of HEW's regional directors, said that a lack of commitment on the part of SRS to provide adequate field staff to implement EPSDT was a major problem. She also called for more active involvement in the task by the office of Dr. Charles C. Edwards, assistant HEW secretary for health.

Dwight replied that SRS was not able, unfortunately, to provide additional medicaid staff members to the regions because all employees were fully committed to higher priorities until July 1975. He said the situation could worsen for EPSDT implementation.

Weinberger concluded the meeting by emphasizing his strong commitment to implement EPSDT. The official minutes of the meeting read:

"The Secretary stressed that this is an extremely important objective which should not fall short of achievement due to inaction or delay on the part of HEW. He expressed his strong desire that regional PHS (Public Health Service) personnel take an active role in assisting states to implement this program. . . ."

Young memo

More recently, John D. Young, HEW's assistant secretary-comptroller, also has questioned whether the department's implementation of the EPSDT program complies with the law.

Young, according to several SRS staffers, sent a memorandum to John R. Ottina, assistant HEW secretary for administration and management, suggesting that, in light of the July 1 deadline, SRS's management objective for implementing the EPSDT program be strengthened.

Young said in the June 5 memo:

"The SRS proposal to make available EPSDT services to eligible children and to screen three million children should be reconciled with the legal mandate to provide

screening for all children, in other words eight million plus.

"Now that push has come to shove, as far as the financial penalty is concerned, we suggest that SRS invest much more than $40,000, which in budget terms represents two man years, in the effort.

"Also, the OPS (Operational Planning System) objectives should detail how SRS will monitor EPSDT and apply financial sanctions where necessary. The plan should also include development of a tracking system to indicate whether health screenings are actually followed up with by diagnosis and treatment."

Young was making reference to the MBO management system. Ottina and Thomas S. McFee, his deputy for management planning and technology, are responsible for administering the internal management system.

The implementation of the EPSDT program was a management objective established by the SRS in fiscal 1974. McFee said in an interview that because of Weinberger's commitment to the goal it likely would be upgraded in fiscal 1975.

It was SRS' first crack at upgrading the objective which Young questioned Dwight had suggested that the "resources required" to operate EPSDT in fiscal 1975 totaled $2.6 million, including $40,000 for the salaries and expenses of two staff members.

STATES

HEW's grudging commitment to the children's health program has been reinforced to a large degree by the states, which have feared from the beginning that EPSDT would only add to what was already an onerous financial burden—medicaid.

States have recognized the problems which exist, according to Howard Newman, but they have failed to correct most of them because of a concern over the potential cost.

In a speech March 12 to the National Health Forum, Newman said:

"There was universal acknowledgement of the need for comprehensive health services for poor children, and that such services were not readily available or accessible to the needy.

"Today, many of those problems still exist. In certain areas, a child in a poor family has only half the chance of those with higher incomes to live to his or her first birthday. Half of all poor children are not immunized against polio. About two-thirds have never been to a dentist. And poor children have three times more heart diseases, seven times more visual impairment, six times more hearing defects, five times more mental illnesses than the more affluent," Newman said.

He said that EPSDT got caught in the squeeze between rising welfare expenditures and the states' concern over the potential cost of the screening program.

"States were reluctant to embark on this venture, and the federal government was reluctant to insist. The number of welfare program recipients had been increasing steadily and the bulk of this increase was in the addition of children whose families needed public assistance. . . . Despite its obvious long run, and even short run, benefits, EPSDT posed a problem for public budgets," he said.

Links

Beyond the problem of its potential costs, EPSDT posed a significant obstacle for medicaid programs that never had been called upon to develop services. To make the vital link between providers of care and the intended recipients was a new and foreign task for state medicaid programs.

Medicaid was established in 1965, primarily as a federal-state mechanism to finance the cost of the basic health needs of some 27 million poor Americans. Many state programs are not equipped to manage the development of new service programs within the context of medicaid, even if they had the money.

But pressed by court suits, a number of states now are committing new resources to develop the EPSDT program. The states which have most impressed HEW with their efforts to implement EPSDT are Alabama, Iowa, Michigan, Missouri, Mississippi and Virginia.

In California, the EPSDT program helped influence the state legislature to enact a law which directed the state government to make screening services available to all children.

Texas has made a special effort to extend dental services to children eligible for the EPSDT program. Dental services are generally the most difficult to attain of those services provided under the program.

New York

New York has decided to step up its implementation of EPSDT, in the face of a court suit which charges the state with not developing a program and, as the result of the recent appointment to a high state post of Beverlee A. Myers, a former HEW official committed to EPSDT.

In a project that will start in September, New York State's Department of Social Services and Department of Health will strive to link children eligible for EPSDT with a comprehensive range of health services.

"The program began in 1972 in New York, but to date it has not been effective in reaching the target population," according to a state document which outlined plans to upgrade EPSDT implementation.

Through a marriage of New York's medicaid program and the regional medical program (RMP), another HEW enterprise which seeks to improve the health delivery system in a variety of ways, the state agency hopes to make the vital link between eligible children and screening services.

The agency plans to focus its efforts initially on approximately 450,000 eligible children in upstate New York. Medicaid funds would finance the screening, diagnosis and treatment services. But RMP monies would be used to identify the children and educate their parents to the merits of EPSDT.

New York spends more than $2 billion a year to finance health services under medicaid. It spends an average of $300 a year on individuals who participate in medicaid.

Mrs. Myers, a deputy commissioner of the State's Department of Social Services, rejects the notion that the EPSDT will be a costly endeavor for states. "We may well be able to reduce that $300 figure, or at least control how it is spent better, through EPSDT because it will encourage the delivery of more primary care and less hospital care."

"The program should demonstrate that a relatively small amount of flexible RMP funds can be used as leverage to make the expenditure of relatively large amounts of medicaid funds more effective," Mrs. Myers said in an interview.

In New York City, the state agency plans to follow two approaches to implementation. One is to inform parents of preschool children through letters of the availability of screening services, which are provided by New York City's Health Department.

Second, New York plans to screen older children through a linkage with the schools they attend, an approach which has not been used widely in other jurisdictions. Before New York can move forward with this approach, though, HEW must grant its approval because it will require the department to waive a program regulation.

OUTLOOK

Come July 1, Dwight said, HEW would be prepared to assess the penalty provided by law on states that have failed to implement the EPSDT program. But he said that "assessment of the penalty is an admission of failure" to put EPSDT in place.

SRS's apparrent strategy, as reflected in Dwight's comments and the agency's MBO statement, is to grant states the benefit of the doubt on the question of implementation.

SRS's proposed MBO statement on implementing EPSDT indicates that the agency does not plan to move precipitately to impose the penalty.

For one thing, a lot of money is involved and a quick cut-off would bring screams of indignation from the states and their representatives on Capitol Hill.

Second, a reduction in the funds would only hurt those individuals who can least afford it—the welfare recipients. And third, Dwight is prepared to give states every benefit in finding ways to comply with the law, such as phasing in programs over time.

SRS's proposed MBO statement on implementing EPSDT shows that the agency plans to use the first three months of fiscal 1975 to assess which states have not complied with the law.

On Capitol Hill, meanwhile, a spokesman for Sen. Ribicoff said that he is prepared to take HEW to task if it fails to require states to comply with the EPSDT law.

THE ENERGY CRISIS

Mr. TAFT. Mr. President, there has come to my attention an address made by Putnam B. McDowell, president of Marion Power Shovel Co. to the Marion, Ohio, Chamber of Commerce on January 29, 1974. In my opinion it is an extraordinarily perceptive analysis of the energy crisis which should be shared with my colleagues. While I do not necessarily ascribe to the comments as to individuals, political candidates, or international relations, the ideas propounded are helpfully provocative and validly challenge some of our prevalent shibboleths dominating public thinking on the subject. I therefore ask unanimous consent that the address be printed in the RECORD.

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

THE ENERGY CRISIS: REAL—NOT CONTRIVED

(By Putnam B. McDowell)

President Dunn, distinguished guests, members and friends of the Marion Area Chamber of Commerce:

This opportunity to speak to many of Marion's most distinguished citizens comes to me just before my 50th birthday and I am, therefore, reminded that someone once said that "middle age is when you know all the answers and nobody ever asks you the questions."

Since I'm about to enter solid middle age, this may be the last time I get asked the questions and I'm going to take full advantage of it and give you what I think are the answers to some of the questions you should be asking about the nation's energy problems, about how it is affecting relations between industry and the public in general and about how it may affect the relationship between your community and our company—Marion Power Shovel. We, of course, build the mining equipment which is a key to relieving the energy crisis through increased coal production.

Never in my business career have I seen such strong evidence of failure on the part of the public and of politicians to understand and respect the functioning of our profit-based economy than is evident in the daily headlines concerning the energy crisis, which I assure you is real—not contrived.

Because I am alarmed by what I see and hear and because the future of Marion Power Shovel and, to an extent, the Marion community is involved directly with energy, I want to talk mostly about that subject tonight.

In the summer of 1973, when I last spoke publicly in Marion, I predicted that the business of Marion Power Shovel might double in the coming decade. The expansion program we announced last October was based on that kind of assumption. I must now tell you that we will double in volume before mid 1976, based on orders and letters of intent now in hand, which extend already into 1978. There is strong evidence that we may triple by 1977–78. since our company already contributes roughly $20 million per year to the economy of Marion, through payrolls and taxes, you can see that the massive purchases of mining equipment now being made by the coal industry will necessarily have a significant effect on Marion, Ohio. How much effect will depend on the extent and location of our further expansion. We must face and resolve, within a few months, a number of questions which I thought last summer we might have five years or more to settle. They include the question of availability of labor here in Marion, which in turn raises such questions as the adequacy of Marion's housing, educational resources and other community services. In short, the community must ask itself how far it is prepared to go in order to encourage continued expansion by the Shovel here at home.

Another major factor is the judgment we at the Shovel must make about the attitude of this community and of our employees toward increasing productivity to ensure that the Shovel can compete effectively with manufacturers in other parts of the U.S. and in other nations—especially nations like Japan—which will soon be desperate to expand exports in order to pay the staggering increase in energy costs, which they face as a result of higher prices of Arab oil. We at the Shovel must also consider carefully whether the prospects are good for peaceful and constructive collective bargaining of labor contracts, which will reopen next year, as we are pressing for heavy output of the machines which our nation so desperately needs for added coal production. It is still my conviction that it is better to expand here in Marion—but there are many factors which compel us to examine alternatives.

The list of projects which your organization has on its agenda for the coming year responds directly to many of the questions I've mentioned. As a matter of enlightened self-interest, Marion Power Shovel commits itself, wholeheartedly, to support however and wherever it can, your efforts to improve downtown Marion, the airport, your schools and, in particular, the new Tri-Rivers Vocational School, low-cost housing and all of the other forward-looking undertakings which your staff and committees have identified.

Before returning to the broad subject of energy, let me take just a moment to describe our company for those who may not have heard about it before. The Shovel, of course, is an old company dating back to the 1880's and has been a pioneer and leader in excavating equipment ever since. It has been owned for the last eight years by the Hillman Company, a Pittsburgh-based private investment company of which I am an officer and director. Hillman has, for generations, been involved in coal and is today one of the larger holders of metallurgical coal deposits in the U.S.

Over the years Hillman has prospered and diversified into banking, oil and gas and a wide range of other activities from airlines to air conditioning. Marion Power Shovel is now one of our largest and most important holdings. I have served as Chairman of the Board of the Shovel since 1966 and am currently in my second tour of duty as President, and expect to continue indefinitely to be closely associated with the day-to-day conduct of the company's affairs.

We build power shovels, walking draglines and rotary blast hole drills, which are used for mining coal, iron ore, copper, bauxite and phosphate and in heavy construction work, such as dams.

Some of our machines stand 20 stories tall and cost up to $15 million or more. None are really small. All are highly engineered. We are one of a very small number of companies world-wide which can design and build such equipment. You here in Marion never see our product because it goes out piecemeal, sometimes on as many as 120 railroad cars for one machine—and is then put together in the field—throughout the U.S. and in Australia, India, Africa, Morocco, Turkey, South America—in fact, anywhere in the world where there are large quantities of minerals to be mined.

Coal, of course, is our largest market—especially today—and that brings us back to the energy shortage, which has already inconvenienced you and which is going to alter your way of life and that of your children for some time to come.

Anybody who tells you that there is not an energy shortage is doing you a disservice. If there is not a shortage, I ask you to explain to me why the coal industry has placed orders for a half-billion dollars of walking draglines in recent months, and why they are committing to billions of dollars for mines where those machines will dig. That is not rumor—it is fact. If we are, as Ralph Nader claims, "awash with oil," why is Syncrude, a consortium of major oil companies, committing now to a billion-dollar project to extract oil from the Athabasca tar sands in Canada? That's not rumor, it's fact. We at the Shovel have the orders to prove it. Why did Gulf Oil just bid over $200 million for a mere 5,000 acres of government-owned oil shale, just as openers, on an immense project to extract oil—the hard way—from oil shale? Why has El Paso Natural Gas placed commitments for machines to dig the coal for a plant to convert coal to gas and by-products? If there is not a serious shortage of oil now and prospectively, these hard-headed companies, which are being described daily in the press as self-seeking, are making some spectacular errors against their stockholders' interests. I doubt very much that they can be that wrong.

There is a shortage. It has been coming on for years and would have arrived without the Arabs, and it will be here long after the Arabs turn their oil back on—as they will soon do. The fundamental shortage was caused by years of underpricing gas and oil in relation to coal and other forms of energy. This increased the demand for petroleum products in an explosive fashion. So, we burned more and more gas and oil where coal would have served as well—instead of saving gas and oil for those things they are most valuable for—like lubrication, plastic products, pharmaceutical bases and so on. While we depleted our limited oil reserves rapidly, we as a nation sat on our 300 to 600-year supply of coal. With gas and oil so cheap, we couldn't dig the coal at a cost which would compete, so our great coal industry stagnated. Even today, in 1974, we are hardly mining any more coal than we did two years ago.

Coal, which as short a time ago as 1966 had 64% of the market for utility fuels, has fallen to 50%; while oil, which formerly supplied 8% of utilities' requirements, rose by 1972 to 20%. That's where your petroleum went—we put it right under the boilers in place of coal, which we left in the ground.

Why was gas and oil priced so low? Among other things, the gas and oil industry is regulated by some 60 federal and state agencies and bureaus, which largely determine where and how much gas and oil is produced in the U.S. or imported. These agencies held prices down, "in the public interest." Consumption rose, of course, at these bargain rates.

The incentive to do more exploration, which is a high-risk business, was dampened and new reserves were not developed. The return on investment in oil refining, which is our worst bottleneck short term, dropped from 10% in 1968 to under 7% in 1972, and capital flowed away from petroleum to other fields and, of course, flowed overseas where U.S. oil companies found other nations more willing to permit them a reasonable return on investment.

Over the last 10 to 20 years, is there one of you who hasn't witnessed the following scene? A local utility announces that because of rising costs, they intend to seek an increase in rates for their gas or electricity. At that point, consumer groups and local government officials rise up in defense of the consumer and block or modify the increase. Some political figures have used this route as a way to rise to higher office. The cumulative effect of this well-intentioned effort, taken in so many communities and over so many years, has played a key role in underpricing gas and oil and has contributed mightily to the present shortage. The road to hell is, indeed, paved with good intentions.

Against this background, there was added the following:

1. Growing dependence on Arab oil, while our foreign policy in the Mideast led us further and further into opposition to the Arabs in their confrontation with Israel. Without regard to the merits of either policy, they were indeed strange bedfellows!

2. Growing ecological concerns were translated precipitously into law—and raised gasoline consumption per car and drove utilities further toward oil and gas to replace high-sulphur coal, which was no longer permitted as fuel. This shut down much coal production. The more stringent mine safety act raised underground mining costs for coal, while the threat of unreasonably severe anti-strip mine legislation created uncertainties which slowed expansion of coal mining by surface extraction methods.

3. Finally, these trends coincided with the time when the Arab's recognized that they had been underpricing their oil and that they could use this moment in history, both to correct their error and to employ oil as a bargaining tool against Israel.

I am neither condemning the ecologists nor advocating that we abandon Israel. I am simply saying that as a nation we did not foresee what it would cost us to pursue simultaneously all these goals, including the goal of low energy costs for the consumer. "When you get something for nothing—you just haven't been billed for it yet." I didn't invent that phrase myself. I just suggest that it fits the present case. It is time for America to face the facts. Among them is the fact that the national policies mentioned earlier as contributors to our energy problems, are under the control of not private business but of the same Congress which is now blaming private enterprise for so much of our trouble.

This is no time for the politicians and the Naders to pursue the devil theory by trying to convince you that a conspiracy by the oil companies has created our present dilemma or to pretend that there is not a shortage, which is precisely what Nader has been saying.

I want someone to explain to me how our oil industry, while regulated by 60-odd federal and state agencies and congressional committees, could conceivably have carried off such a conspiracy in an industry which has 7,000 oil and gas producers—including my company—127 refining companies, 30,000 marketing companies and 200,000 independently-owned retail outlets.

Moreover, how does Mr. Nader explain the fact that most of the rest of the world has a far worse energy crisis than the U.S.? In tonight's audience, we have our associates from Japan—Sumitomo—one of the great Japanese companies, and a representative of the British government. If they could speak here, they would tell you that the non oil-producing industrial nations, including Britain and Japan, have energy problems which dwarf those of the U.S., which is still rich beyond measure in potential energy sources, especially coal. Do our domestic gadflies maintain that the U.S. oil companies not only hood-winked the U.S. government but also the governments of the rest of the world? That's incredible!

Bear in mind, too, that the most recent anti-business headlines come from Senator Jackson—an avowed candidate for the presidency of the U.S. in 1976. We should know by now that there is no truth, there is no fairness, there is no objectivity in presidential candidates of either party. They simply play to the base emotions of the public and, in particular, play the scapegoat game in times of crisis. I am becoming convinced that the business of the country is too important to be entrused to active political candidates for discussion.

There undoubtedly has been some bad judgment and some unrestrained self-interest practiced in the energy picture. But to concentrate on those ever-present imperfections which exist in every society—whether free or controlled—as an explanation for a most serious and fundamental problem can only mislead the public and further delay us in our search for fundamental solutions to a fundamental problem.

You, undoubtedly, sense some exasperation on my part with Mr. Nader. He puts me in mind of a wonderfully short prayer:

"Oh Lord, just make me as certain about something as some people are about everything."

He also reminds me of Robert West's remark, as follows:

"Nothing is easier than fault-finding: No talent, no self-denial, no brains, no character are required to set up in the grumbling business."

What started as a very useful movement—"consumerism"—is rapidly turning into the grumbling business in this country.

When the history of this period is written, it will be seen that the Naders and Jacksons were nibbling on minutae and thus just diverted the public eye from the hard truth about energy.

Now a word about profits and oil company profits in particular.

You've all seen the headlines:

"Oil Profits Soar"

"Gusher of Profits" (That one comes from a national news magazine whose president and editor is a classmate and friend who I know is a fair and sensible fellow, a "prince among men"—who should know better.)

Not one of the papers or magazines which has been headlining the turn around in oil profits has bothered to tell the public these things:

1. Oil profits have just begun to recover from a five-year decline. Out of 29 major industry groups, oil ranked 25th, fourth from the bottom in growth of earnings 1968–72. Their earnings declined 2.2% in that time.

2. Most of the earnings improvement comes from the overseas oil business not from the U.S. consumer.

3. Much of the earnings come from chemicals—not oil.

4. Over the five-year period, the oil companies ranked only 17th on return on equity investment. Sixteen industries did better and only 11 did worse. The oil companies earned on the average 10.9% on their stockholders' investment. This compares with the 5% you can get at your local savings bank.

At the top of the list at 15.7% return is personal consumer goods. In other words, we don't care if investors in lipstick and kleenex get rich, but we think it's outrageous that a basic industry which has to invest hundreds of millions at a crack makes more than 10% at a time when your bank will pay you 6% to 7% on a risk-free certificate of deposit.

5. By the way, two of the industries which have done worse than oil in the last five years or so are:

Airlines—who are now being accused of gouging by dropping routes because of fuel shortages—they had the worst earnings trend of all, and earned 4.9% on their stockholders' money—less than you get at the savings bank—and

Steel—which now can't produce what we need because at a 5% return they were not about to expand. Mark my words, in another quarter or two, you will see headlines implying that steel is enjoying outrageous windfall profits—and you won't be told about those 5% returns for 1968–72, at which level they just can't attract capital.

Then, there is the coal industry, where two of our larger coal companies apparently lost money or just about broke even in 1973. Yet, there has already been talk about guarding against windfall profits in coal.

You have no doubt heard the charge that those oil companies which bought up coal companies are holding coal off the market in order to keep oil demand up. Let me read you the record of the second largest coal company, Consolidation Coal, which is owned by Continental Oil:

Before Continental ownership we can see a $13.5 million investment and five new mines over a five-year period. After Continental ownership, $41.3 million was invested and 22 mines in five years were opened. I think that answers every canard which we've seen in the papers on this subject.

You know that the government has proposed an excess profits tax on oil and at the same time says it will spend $1.8 billion, as a start, on energy research. Well, if the companies have such high profits, the government should encourage them to do the research and development. If the industry is too poor to do the research itself, why increase their taxes? You can't have the argument both ways.

If the critics of profits would come out in the open and say, "We don't think our profit-oriented economic system is up to the task and we believe we should abandon it in favor of socialism or another form of planned economy," then, at least, we could have discourse about what system has a better track record and might be adopted.

But, when they attack the least signs of profit improvement in an industry which is expected, under our system, to find billions of fresh capital in order to do its job—then they are simply harassing the players without contributing a viable alternative.

Higher oil prices will adjust the very imbalances which led to our present situation. Higher prices will ration precious oil; they will bring the coal out of the ground and permit the production of gas and oil from coal. Higher oil prices will stimulate exploration for new oil. Yes, this will increase the cost of energy to the consumer, but how else is that consumer going to get his oil and gas—will he vote to have his government tax him to produce the money to drill for oil and refine it?

Who is kidding who—Mr. Nader?

Who is pulling the wool over whose eyes—Senator Jackson?

Oil costs money and the consumer is ultimately going to pay the bill and it's going to be a bigger bill so long as more people want more oil than there is to go around. If you took every cent of profit out of gas, oil and coal, the price of energy would still go up in large multiples of the old bargain prices—and something is going to have to give.

There will be devaluations among our trading partners and, as a result, the U.S. will encounter more foreign competition. The U.S. may have further balance-of-payment problems and the Arabs may become the world's bankers, at least for a time.

All of these things may happen and may continue until the breeder reactor or solar energy or some other new concept becomes a reality in the next century—as a substitute for fossil fuels. Let us hope that U.S. technology will be in the forefront on such developments.

Ladies and gentlemen, you have been patient. It is a rare occasion when a businessman sees a subject about which he has some hard knowledge—being so grossly misrepresented to the public, and I appreciate the chance to speak out on that subject tonight.

In brief summary—the energy crisis will persist for a time. Short-run solutions, such as more coal production, will begin to help in two or three years. It will take a decade or more to develop longer-term solutions, including atomic energy. Higher fuel prices will have to be paid. The sooner prices improve and stabilize, the sooner you will see more oil and coal being located and brought out and the less risk there will be to your own jobs and businesses, which can adjust to higher energy costs, but not to an empty fuel tank.

Tell this to your children. Take this story to their teachers. In Haim Ginott's words, "Children are like wet cement. Whatever falls on them makes an impression." A lot of half-truths and scapegoatisms are falling on them today and may seriously distort their view of how the real world works.

To the officers, staff and directors of the Chamber of Commerce, I say again—the Shovel needs a vigorous community in which to grow, and your programs will bring that about. Thank you for what you are doing for this community.

CONTEMPORARY INSTITUTION OF THE PRESIDENCY

Mr. MONDALE. Mr. President, in early June I had the privilege of addressing the Center for the Study of Democratic Institutions in Los Angeles on the subject of the contemporary institution of the Presidency.

A recent editorial in the Duluth News-Tribune makes reference to this speech, but more importantly goes on to discuss the need for clear thinking on the part of the American people with regard to all of our institutions of Government. I commend this editorial to my colleagues, and ask unanimous consent that it be printed in the RECORD at the conclusion of my remarks.

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

WHAT, NOT WHO

Sen. Mondale did not spare President Nixon in his California speech on the crisis of the presidency. But he did make the needed point that there is much more to the solution than choosing the right people. He traced the great increase of several kinds of presidential power, and the natural presidential tendency to dominate or bypass his political party. He conceded that many of these powers were used by Presidents Kennedy and Johnson and handed on to President Nixon who made more conspicuous use of them.

We are getting close to an awkward fact. Americans, as school children, learn that we

have a government of laws, not of men. Most of them don't seem to believe this for very long. Much more than the presidency is affected.

Popularity of a special kind leads to legislation adding to the powers of an elected official. What he does not get by law, he can often have by asserting a new power. Thus precedents are set. The mob cheers and smiles. But sooner or later the power is used in an unpopular way. Usually this is done by a new official, who is not well liked, anyway. Then people begin to grumble. At heart they want lots of power for good guys and practically none for the other kind. No government can operate in that manner.

People are just as childish in viewing the other branches of government. The U.S. Supreme Court was praised by conservatives when it seemed to be a brake on New Deal experimentation, and it may be praised by them again if it follows recent tendencies of the new majority. But for more than a generation people who didn't like some added safeguards for civil rights and defendants' rights were grumbling about the courts' power. And a pre-eminence of congressional power has its unattractive side, too.

The cure calls for a kind of abstract thinking. That is more difficult than ever in an age of small-screen relations. It is one more challenge—and an unfair one—for the American school system.

SAVE THE CHILDREN FEDERATION

Mr. PERCY. Mr. President, the Save the Children Federation—SCF—has for years been applauded for its work on behalf of impoverished children around the world.

Now SCF has changed its emphasis to focus on community development in an effort to bring new hope to a portion of the 1 billion people of the world who have not shared in economic growth and development and who are faced by the threat of widespread food shortages.

The new strategy involves assisting poverty-stricken communities to make decisions about their own priorities and then assisting them to achieve their goals. In this way whole communities are strengthened and their residents, adults as well as children, are better able to withstand the danger to survival which threatens the developing world.

Not long ago the Christian Science Monitor published an article by Kenneth McCormick which describes in some detail the new direction of the Save the Children Federation. 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:

[From the Christian Science Monitor, July 5, 1974]

SAVE THE CHILDREN FEDERATION WIDENS ITS OUTREACH

To send an impoverished child from a developing nation hundreds of miles away to school, or to help build a school in the child's community—which is more effective? This question has prompted the 42-year-old Connecticut-based charitable organization to shift from an individual to a community self-help program. Below—how it happened and how it works.

(By Kenneth McCormick)

NORWALK, CONN.—Appropriately headquartered in a sparsely furnished, red-brick Victorian building that once was an orphanage, the Save the Children Federation (SCF) tackles the problems of the "old woman who lived in a shoe" with the crusading spirit of Charles Dickens.

Launched during the depression era to feed hungry children in Appalachia, this international "child sponsorship" organization has embarked on a significant new course: putting up "whole communities" for adoption throughout the world.

For 42 years, the SCF has funneled funds from American donors to individual needy children, as near as New Mexico's Indian reservations and as far as Vietnam.

LONG-RANGE SOLUTION

But in response to growing food shortages and deteriorating living conditions of the world's poor, SCF executive director David L. Guyer now terms community "self-help" programs the best possible long-range solution to children's needs.

"If we can do something about stabilizing family and community life, then we can create a healthier environment for children to grow up in," says Mr. Guyer.

Two years ago, Chino Betances, a native of the Dominican Republic, visited a remote valley on the tropical island's frontier on behalf of Save the Children.

UNIQUE OPPORTUNITY

Hipolito Billini, as the community is called, had a population of about 2,500 with an average yearly income under $250. More than 1,000 inhabitants in the poverty-stricken valley were under 15 years old, living in dirt-floor shacks with primary diets of rice and beans, below subsistence level.

Mr. Betances talked with community leaders and offered them a unique opportunity: If they would organize a representative community council to list the priority needs of the valley and if community members would do all the necessary construction and farm work, the SCF would provide the materials necessary to build a school, clinic, and nutrition center, and to begin fertilized farming, or whatever else the council decided was paramount to the community's survival.

MORE NOW BENEFIT

Hipolito Billini took the SCF offer. With the technical advice of SCF representative Betances, the valley's inhabitants of all ages slowly are building their community from the roots up into a more viable unit.

"This community had all the motivation to get itself going and pull itself up," says SCF worker Marion Ritchey. "It just lacked the material input, which we were able to provide."

By expanding its program from single children to helping whole communities, the SCF now benefits some 20,000 more children and a host of other community members.

SCF donors still "sponsor" individual children in the selected "target" communities, but the money is pooled together for community projects.

"The major accomplishment in the new program comes in people coming together to make decisions about their needs," says Mr. Guyer, who contends that children ultimately will be helped best by gaining confidence in themselves and their community through solving their own problems.

The SCF director, talking with the Monitor recently about his organization's new approach, cited other reasons for the shift in emphasis from individual children to entire communities:

Before, the SCF faced the dilemma of choosing to help only one child among many in a community, leaving neighbors and even brothers and sisters behind without any assistance.

DECISIONS EASIER

"The criteria for selecting communities is somewhat easier: They have to be the poorest communities we can find that demonstrate a real desire to utilize our 'self-help' program," says Mr. Guyer.

"It's far more socially beneficial to spend the same money building an entire school in a community rather than sending a single child hundreds of miles away to school," he says.

From years of experience, the SCF has learned the importance of the surrounding social environment on an individual child's development. "You have to improve his surroundings to really help him," says an SCF worker.

M'NAMARA'S WARNING

The strongest reason for this transition from child to community is the concept of building up communities to safeguard against impending dangers which threaten the survival of people in developing countries.

World Bank President Robert S. McNamara has warned in recent speeches that nearly a billion people in developing nations are being left out of economic growth, "entrapped in conditions of deprivation which fall below any rational definition of human decency."

It is these same billion world poor that, economists warn, will all be affected by a spreading food crisis.

"This food situation," says SCF board member Dr. Margaret Meade, "will give new impetus to people meeting their needs through strengthening their communities." While Save the Children cannot save all the communities for these billion poor, its innovative program is a potential development strategy that rich nations may adopt to assist developing countries.

TWO BASIC CONCEPTS

At the heart of the SCF community program are two concepts: self-help, and self-sustaining projects.

"We agree with Tanzania's President Nyerere," says SCF program director, Dr. Melvin Frarey. "People cannot be developed; they must develop themselves.

"The key is for developing communities to make their own decisions [on projects] based on viable alternatives," he continues. "When they make the decisions on priorities, they get behind it instead of us coming down there and dictating what's to be done."

Dr. Frarey sees the role of the SCF as a catalyst, easing communities over stumbling blocks and providing them with their first material input.

The goal is for the program in each "target" community where the SCF operates (currently 29) to become self-sustaining, allowing the SCF to drop out of the picture.

"A breakthrough in community development is coming," predicts Mr. Guyer. "The ecological and urban problems of this decade are giving people a greater realization of their interdependence. People have to work together."

A PLAN FOR THE NATION'S RAILROADS

Mr. HARTKE. Mr. President, I have become increasingly concerned about the need to devote a more adequate share of our resources to the development of existing technology in the field of rail transportation and to the research and development of new technology for high-speed ground transportation of passengers and freight. Recent events have demonstrated to the American people the need for a healthy rail transportation system for the movement of both passengers and freight, and the shortcomings of our current system are becoming more evident. In order to avert what may be the movement toward outright nationalization of rail transportation facilities in the United States in the face

of inadequate service, I am becoming convinced that we must develop adequate legislative mechanisms to divert sufficient resources into our rail transportation system to assure its health and viability.

The self-evident wisdom in the decision made by many countries, such as England, to allocate resources to the development of a strong and healthy rail transportation system is now becoming clear; their investment is now paying substantial dividends. Not only can freight be transported efficiently and reliably, giving good service to customers, but the quality transportation of passengers by rail is becoming increasingly desirable. I am hopeful that my colleagues will join me in what must constitute substantial legislative efforts in this regard in the near future.

Mr. President, I ask unanimous consent that a recent editorial from the Kokomo, Ind., Tribune be printed in the RECORD at the conclusion of my remarks. This editorial accurately summarizes many of these issues and reflects the increasing public awareness of the need for a healthy public transportation system in the United States.

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

[From the Kokomo (Ind.) Tribune, Apr. 10, 1974]

HARTKE'S RAILROAD PLAN

U.S. Sen. Vance Hartke makes a strong and impressive case for revitalizing America's railroad system by building high-speed trains that would cut traveling time radically and avert the problems of motorcar pollution caused by an over-saturation of automobiles on the streets and highways.

Writing in Pageant magazine, the Indiana senator says there is a simple choice before us: we can have a high-speed rail system, second to none; or we can sell steel rails for scrap and drive more motor cars, crowd into narrower living spaces, breathe more fumes, and turn the world's finest interstate highway system into the world's biggest parking lot.

Hartke isn't proposing to replace the automobile. The motor car has a proper place and will continue playing a big role in transportation, he says, but dependence on it could be relieved by a fast efficient and popular rail system.

Last year Hartke proposed legislation for a pilot project offering rail schedules between major East Coast cities for traveler-commuters, hoping it would catch on across the nation. He says research by government agencies demonstrates that high-speed rail corridors can be built between cities by adapting existing ground-level trackage to sustain average speeds of 150 miles per hour.

He agrees that curves would have to be straightened, tracks welded and upgraded, and says electronic signaling and controls would need to be installed and rights-of-way isolated for scurity.

In addition, he says, engineers experimenting with unconventional rail-like systems predict that elevated rights-of-way can be built to accommodate vehicles at speeds of 300–400 miles per hour, and by 1986.

The cost for such a system would not be prohibitive, he contends, if one measures standards applied to transportation generally. The estimated total cost is $5.5 billion—roughly one year's accumulation by the Highway Trust Fund, and less than half a billion dollars annually if spread over the life of the contract.

Hartke writes that the system he envisions could produce a travel time of 20 hours between New York and Los Angeles, and one hour and 50 minutes between Washington and Boston, with much shorter times over shorter distances. All that America needs to accomplish this is will of purpose, he declares, adding that the benefits would be regeneration of impacted, decaying cities and bringing rural areas closer to the mainstream of national, economic activity.

Where services are upgraded, riders and revenue increase and there are lower costs and thus lower fares, the Senator argues. "America literally can move, or stand still and begin the breath of death," is the way he puts it.

He points out that the Japanese, Germans, English, French, Spanish and Scandinavians all are building or have built high-speed rail systems, while the U.S. Department of Transportation "talks seriously of allowing the 20,000-mile Penn Central Railroad to fall into oblivion."

The Senator's article was directed chiefly to the opportunity to build a topnotch passenger system, but the improvements he envisions—in particular the upgrading of trackage—would constitute an immense benefit to freight service, too.

Saying he is convinced that the financial crisis of the railroads today bespeaks no more than a weakness of will, he calls for America to "seize upon bankruptcy as an opportunity to build from the very fires of destruction, a new Phoenix." It is quite a challenge, an imaginative one, and one that America ought to be capable of accepting and translating into reality.

THE RECOVERY OF ENERGY FROM SOLID WASTES

Mr. DOMENICI. Mr. President, during the last 2 weeks, the Panel on Materials Policy of the Committee on Public Works has been holding hearings on several pending bills whose purpose is to enhance the recovery of energy from solid wastes. The Panel was created by the distinguished chairman of the Public Works Committee, Mr. RANDOLPH, and is chaired by him. It is my honor to serve with him on the Panel.

The problems involved in putting our wastes back to work are many, and they are complex. As a former mayor, I have looked at some of them from the other end of the telescope. I hope to be able to help in their solution from this end.

Whatever solutions we may propose will depend on the dedication and leadership of our chairman, the Senator from West Virginia. This morning, he spoke to the U.S. Chamber of Commerce on this subject. His speech clearly presented the magnitude of the problem we face. He summarized the crucial problems with which we must deal, and, perhaps most important, gave a realistic appraisal of our present state of progress and the next steps which might be taken.

While I have some ideas of my own on measures which may provide incentives to mine our trash piles, Senator RANDOLPH's speech inspires my confidence that the bill which we will soon report to this body will be both forward looking and soundly based. I commend the speech to my colleagues as a preview of coming attractions.

Mr. President, I ask unanimous consent that the full text of Senator RANDOLPH's speech be printed in the RECORD.

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

SOLID WASTES—AN UNTAPPED RESOURCE

When Athelstan Spilhaus was President of the American Association for the Advancement of Science he said "Waste is simply some useful substance we do not yet have the wit to use."

Should this be true, then we are indeed lacking in wit. The quantities of resources that pass through our economy, to be discarded as solid waste, are staggering.

Urban wastes amount to 230 million tons annually, while our society is generating 4.4 billion tons—the principal sources of solid wastes are animal wastes, 1.7 billion tons; and agricultural wastes, 640 million tons. Industrial sources account for 140 million tons.

However, by the year 2000 the United States will have to cope with 12 billion tons annually if current *ad hoc* materials policies are perpetuated. To avoid an escalation of the current unsatisfactory situation, we must institute a comprehensive rational National Materials Policy which closes the present cycle of resource extraction, use, and discard to include reuse as a fundamental premise. We must eliminate the word "waste" from our vocabulary and substitute the word "conservation."

The driving force is the fact that we may be unable to sustain our society unless we extend the conservation ethic to raw materials. We are committed to clean air and clean water. We must be equally committed to clean cities and clean countrysides and the repeated reuse of non-renewable resources that are becoming more and more precious.

Solid wastes exemplify our wholesale depletion of renewable as well as non-renewable resources. In 1971, packaging consumed 5 percent of U.S. industrial energy to generate over 40 million tons of solid waste that was thrown away at substantiated public expense.

Many well-intentioned individuals have attacked the symptoms of these problems, usually, for example, with attempts to ban, tax or place deposits on beer and soft drink containers.

During our hearings in the past two weeks, representatives of 1.7 million workers who would be adversely affected by a bottle or can ban testified in opposition to such an action. The solution ultimately rests with recycling and reuse.

It is estimated that our country will have to spend $500 billion or $600 billion in the next decade to achieve energy self-sufficiency. This entails a $5 billion or $6 billion expenditure for each percent increase in energy supply. Yet an investment of only $5 billion for energy recovery from municipal solid waste streams will produce 2.5 percent of the increase in the national energy supply. This is two and one half times more cost effective than developing new conventional energy sources.

Earlier this year Interior Secretary Rogers C. B. Morton warned that the United States in the next few years could face a minerals crisis, one even worse than the energy crisis. As the world's most prodigious consumer of materials, we must now turn to recycled materials to supply our industrial machines.

Significant achievements toward materials conservation are possible through programs which encourage the reduction in unnecessary use of materials, the reuse and repairability of products and the extension of product lifetime.

There is considerable support for the concept of resource recovery; however, there is room for improvement. For example, recycling of paper could easily drop from 20 percent in 1970 to below 17 percent by 1985. Yet with proper incentives an actual in-

crease in the recycling of paper could be achieved approaching 26 percent. Achievement of this goal could save our country some $230 million in solid waste disposal costs.

First, the Federal government must eliminate unsafe collection and disposal practices.

Next, the Federal government must encourage reuse and recycling of materials and conservation of energy.

Third, the Federal government has a special obligation to establish purchasing policies which emphasize the use of these materials.

Reuse of non-renewable and renewable resources was the fundamental premise of the 1970 Amendments. The world is faced with finite natural resources on which to draw for economic growth and solid wastes represent a virtually untapped source of materials.

Several bills—S. 3277, by Senator Domenici; S. 3549, by Senator Muskie; and S. 3560, which I introduced—all place a strong emphasis on resource recovery through grants, loans and technical assistance to state and local governments. These provisions attest to the almost unquestioned need for the country to embark on a very serious national policy geared to recycling.

Federal minimum standards are needed for disposal of solid wastes consistent with comprehensive regional waste management plans. Federal incentives are needed to stimulate further development of resource recovery techniques.

There also is a considerable body of evidence that our current freight rate structure discriminates in favor of the transportation of virgin materials. Should this be the case then legislation on resource recovery should require at least equitable treatment by the ICC, if not preferential freight rates.

Legislation is needed that represents a positive and far-reaching approach—which commits our country to a national materials policy of resource recovery.

My legislation takes such an approach. In carrying out such a policy it recognizes the validity of an area-wide viewpoint in solid waste management. The bill provides for the area approach and provides assistance for planning and execution.

Under my proposal, the Environmental Protection Agency is required to establish standards for solid waste disposal in communities of over 2,500 population. They must prohibit all open dumping or burning and comply with requirements of the air and water pollution Acts.

Achievement of significant abvances in resource recovery will require assured and stable markets for recycled materials such as steel, aluminum, glass, paper, and plastics. Such markets will be guaranteed under Section 218(a) of S. 3560. This places a heavy responsibility on industry to guarantee markets for recovered resources. Moreover, the full impact of these guarantees will not be known until the EPA Administrator promulgates regulations.

It appears that our consumption of virgin resources can be significantly curbed by a true commitment to effective reclamation and recycling. Rather than squandering resources by dumping them, we must recycle them again and again.

The technology now exists to recycle increasing quantities of materials. We must now commit ourselves to installing the systems and restructuring the market to encourage and absorb recycled materials.

Solid waste management and energy questions are closely related. I believe there is a real future for technologies which extract energy, as well as solid materials, from wastes. One firm, Union Carbide Corporation, is conducting a very promising demonstration program in this area near Charleston, West Virginia. With an investment of $3 million of its own funds, Union Carbide is operating a plant with a capacity to recover usable gas from 200 tons of raw municipal garbage a day. This could be the equivalent of one barrel of oil for each ton of garbage processed.

Should recycling not be successful, source reduction may be the only alternative. And I say this recognizing that implementation of a national all-reusable beverage container system could result in the loss of employment for some 60,500 people who would have to be accommodated elsewhere in the economy. This would be a rather dramatic adverse impact in the interest of litter control.

At this time we are just entering the recycling era and we do not have enough practical experience on which to determine whether source reduction, such as the banning of non-returnable containers is in the overall national interest.

In a sense, solid waste management was our first generation effort.

The second generation—recycling—has yet to be tested. However, the foundation for such a national policy was established in the 1970 Resource Recovery Act.

The third generation is product design to improve the potential for materials reuse.

We have yet to consider the wider range of options beyond ban-the-can proposals, for example, the modification or redesign of products to enhance their potential for recycling.

Source reduction should be employed only as a last resort where necessary to reduce or realocate consumption away from scarce materials. It remains to be determined whether recovery techniques can be made efficient enough to handle this resource depletion problem.

Both returnable bottles with 10-trip lives and non-returnable bottles with one-trip lives ultimately end up in the solid waste stream. Regardless of its original form, this resource will be lost forever if we cannot recover, recycle, and reuse those materials, as well as the hundreds of similar packaging materials that flow through our grocery stores or other distribution outlets.

Through legislation developed by the Senate Committee on Public Works, significant Federal programs have been mounted to conserve and enhance the quality of the air we breathe and the water we drink.

During this same period, insufficient attention has been given to pollution of the land and to the growing problem of solid wastes. Despite enactment of the Resource Recovery Act of 1970 and its predecessor, the Solid Waste Disposal Act of 1965, no major Federal program has been initiated. Our States and communities continue to need the basic technical and financial assistance to cope on a realistic scale with solid waste management.

In order to examine in detail issues relating to a National Materials Policy and to work toward their solutions I created the Panel on Materials Policy.

During present hearings the Panel will explore how best to strengthen the program of the Environmental Protection Agency to provide a realistic and workable response to the multiple solid waste questions that have been posed. After these hearings we will draft a comprehensive solid waste management and resource recovery measure that will facilitate substantial new efforts which build on programs developed pursuant to the Disposal Act of 1965 and the Recovery Act of 1970.

Our Nation and its people produce 4.5 billion tons of solid waste a year. We must give major attention to ways of converting this waste into useful materials. We face a complex problem but we can solve it.

America has grown rich with use-and-discard attitudes made possible by what we thought was an inexhaustible supply of resources. Reality is now forcing us adopt conservation attitudes and to develop the potential for re-using many materials formerly considered waste.

Premier Khrushchev said he would "bury us." That boast has not been achieved. But nearer home—on our own land—we must act wisely to curb a "burying" threat that could badly cripple our economy and slow our progress toward realism in the use of this vast untapped resource.

ETHNIC STUDIES PROGRAM ACT

Mr. SCHWEIKER. Mr. President, implementation of the first year of the Schweiker "Ethnic Heritage Studies Program Act," Public Law 92–318, title IX of the Elementary and Secondary Education Act of 1965, has been completed. I would like to report to my colleagues on vast untapped resource.

Guidelines for the program were not published in the Federal Register until April 12, 1974, with a May 17, 1974, deadline for submission of applicants. In this short 1-month time period, an incredible number of applications, 1,026 were received by the Office of Education, requesting a total of $83,152,631. Only $2,375,000 had been appropriated for the program, and thus only 42 grants for fiscal year 1974 were able to be awarded for 39 projects in 27 States and the District of Columbia.

The diversity and geographical distribution of the applicants interested in participating in this new program were also impressive. Applications were received from every State in the country, the District of Columbia and Puerto Rico. One of the goals of the act, encouraging various ethnic and minority groups to work together in their local communities, is already being met, as indicated by the large number of multiethnic project applications received. The Office of Education reports that proposals were submitted from urban, suburban, and rural areas, representing project applications at metropolitan, regional, statewide and national levels. Office of Education officials report that there has never been such widespread interest in a new program, and that this massive outpouring of applications in such a short time is unprecedented.

Mr. President, at the conclusion of these remarks, I ask unanimous consent to have printed in the RECORD the June 30, 1974, "Information Sheet," prepared by the Office of Education, describing the implementation of the Schweiker Ethnic Heritage Studies Program Act for fiscal year 1974.

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

(See exhibit 1.)

Mr. SCHWEIKER. The Senate-House conference committee on H.R. 69, the education bill, has already approved my Senate-passed amendment to extend the Ethnic Studies Act for 4 years, through fiscal year 1978. Once this 4-year extension is ratified by the full House and Senate, and signed into law, I look forward to close cooperation between the Office of Education, Congress, ethnic and minority groups, community organizations, and educational institutions to

further develop the impressive momentum begun in the first-year fiscal year 1974 program.

As the legislative history of the Ethnic Studies Act indicates, and I have stressed this many times as the author of the act, the initial implementation of the act was essentially a "pilot program." This limited pilot program meant that over 97 percent of all applicants were not able to be funded this year, and that worthwhile proposals in many States and regional areas were not included in the initial start-up funding.

One of my major concerns in drafting the bill was to guarantee the active participation in the program by ethnic, minority, and community groups. The focus of the bill is on educational development and curriculum materials, and educational institutions have an important role to play. But equally important is the grass roots participation of members of a local community.

This is why the requirement of local advisory councils for every project funded under the act was put into the law. The legislative intent is for these advisory councils to have a meaningful role in the ethnic studies programs. Every project, whether conducted under the auspices of an educational institution or an ethnic or community group, must reach into the local community.

I will be working closely with all groups, and with the Office of Education, to insure that the program guidelines, and the project grants, reflect this emphasis on ethnic, minority, and community group participation in the Schweiker Act.

A word of praise is due to the Director of the Ethnic Heritage Studies Branch in the Office of Education, Dr. John Carpenter. He has worked hard to implement the program in a short period of time to set up program evaluation guidelines and procedures that would be fair to all applicants, and to meet the goals of the legislation. The first-year "start-up" of this act would not be as far along as it is today without his personal commitment to the constructive goals of ethnicity and without his tireless efforts. I am proud to note he is a native of Wilkes-Barre, Pa. I look forward to working closely with him to build on this first-year effort, and to make the program even better in the future.

The purpose of the Schweiker Ethnic Heritage Studies Program Act is to encourage greater understanding of the ethnic backgrounds and roots of all citizens in America. It's goal is to help achieve greater mutual understanding and mutual cooperation among all people as a constructive force in all American communities.

I am pleased by this first-year "start-up" record. There are improvements that have to be made, of course, as there are with any new program but I look forward to working with my colleagues, and all interested groups, to achieve significant progress in the Ethnic Studies Act in future years.

EXHIBIT 1

THE ETHNIC HERITAGE STUDIES PROGRAM
TITLE IX, ELEMENTARY AND SECONDARY EDUCATION ACT

1. Program purpose

a. to afford students an opportunity to learn more about the nature of their own heritage and to study the contributions of the cultural heritage of the other ethnic groups of the nation.

b. to reduce the educational disadvantage and social divisiveness caused by personnel and curricula which do not recognize the cultural influences in the lives of individuals and communities.

c. to recognize and realize the educational gains which can result from cultural pluralism in a multiethnic nation.

d. to engender in citizens of our pluralistic society intercultural competence—self-acceptance, acceptance of one's culture, and acceptance of persons of other cultures.

2. Program policy

"In recognition of the heterogeneous composition of the Nation and of the fact that in a multiethnic society a greater understanding of the contributions of one's own heritage and those of one's fellow citizens can contribute to a more harmonious, patriotic, and committed populace, and in recognition of the principle that all persons in the educational institutions of the Nation should have an opportunity to learn about the differing and unique contributions to the national heritage made by each ethnic group, it is the purpose of this title to provide assistance designed to afford to students opportunities to learn more about the nature of their own heritage and to study the contributions of the cultural heritage of the other ethnic groups of the Nation." Title IX, ESEA

3. Appropriation

In Fiscal Year 1974 the total amount appropriated for Title IX, ESEA, was $2,375,000.

4. Period of application for support

The criteria of eligibility and selection, based upon the Act, were published in the *Federal Register* on April 12, 1974 and concomitantly were published in the *Guidelines for Application*. As stated in the *Federal Register* it was required that all applications arrive at the OE Application Control Center by close of business on May 17, 1974 or be mailed by registered or certified mail by May 13, 1974.

More than 14,000 copies of the *Guidelines* were mailed by the Ethnic Heritage Studies Branch to ethnic associations, school districts, state departments of public instruction, post-secondary institutions and, on request, to interested individuals. As defined in the Act, "the Commissioner is authorized to make grants to, and contracts with, public and private nonprofit educational agencies, institutions, and organization . . ." Title IX, ESEA

5. Type and amount of assistance

Assistance was provided as a result of competitive applications. Approximately 40 grants were provided during Fiscal Year 1974.

The maximum grant for a regular project did not exceed $95,000. Three special grants of $170,000 and a fourth special grant of $110,000 were made in accordance with the financial provisions described in the *Guidelines*. The special grants were awarded for applications proposing either major urban or rural area programs or State, regional, or national programs.

6. Type, amount, and sources of request for assistance

a. The Office of Education received 1,026 applications for approximately 40 grants in Fiscal Year 1974. 97.3% of the proposals were unfunded.

b. The amount of support requested by eligible proposals was $83,152,631. The appropriation represents less than 2.7% of the amount requested in the eligible applications.

c. Proposals were received from every State and from the District of Columbia and Puerto Rico.

d. The majority of applications received and funded proposed multiethnic projects. They were prepared as a result of the cooperation of numerous ethnic groups and educational institutions.

e. Proposals were submitted from urban, suburban and rural areas. They included metropolitan, regional, State-wide and national initiatives.

f. A broad spectrum of ethnic diversity was evident in the applications. It is estimated that more than 50 different ethnic groups were associated in the proposed initiatives.

7. The Evaluation and Selection Process

The basis of the evaluation was 26 general and specific criteria published in the *Federal Register* on April 12, 1974, and promulgated simultaneously in the *Guidelines for Application*. A *Technical Review Form* containing these criteria was used by each reviewer in evaluating every application. The degree to which the application met the criteria was determined for each criterion.

Sixty-eight field and federal personnel participated in the Technical Review Process. Each application was reviewed by a panel which included expertise in ethnicity, curriculum and personnel development, social sciences and/or humanities. On every panel, one member possessed ethnic background related to the ethnic group or groups with which the project was concerned. Reviewers were chosen from among specialist who had not presented a proposal or who were not members of organizations which in part or *in toto* has applied for support under the Act. All applications benefited by evaluations and ratings of three individual reviewers. Thereafter, the reviewers, as a panel group, recorded criteria averages and provided ratings of each proposal as "highly recommended," "recommended" and "not recommended."

The names of the reviewers who participated in the evaluation and selection process may be obtained by writing to the Ethnic Heritage Studies Branch.

8. Period of Obligation

The funds appropriated were obligated by June 30, 1974. Successful proposals resulted in agreements with the Office of Education. Applicants who submitted proposals which were not selected were so informed in writing during the last week of June.

CHILD ABUSE

Mr. MONDALE. Mr. President, as chairman of the Subcommittee on Children and Youth, I have been deeply concerned with the problems of child abuse, and have therefore worked with my committee to draft proposals which would help to prevent and rectify the injuries and injustices caused by these detrimental incidents. For several months our committee conducted an investigation, held hearings, read reports, listened to testimony, and visited victims to learn of the nature and severity of the problem. Based on our research, the Child Abuse Prevention and Treatment Act was introduced, passed, and signed into law on January 31, 1974. It is my hope that this measure will provide the extra support

needed by agencies like Child Protective Services of Hennepin County to serve battered and neglected children and their families.

I request unanimous consent that an article from the May 20 issue of the Minneapolis Star be printed in the RECORD.

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

CHILD ABUSE: IT RANGES FROM SWEARING AT A YOUNGSTER TO MURDER

(By Randy Furst)

Molly Johansen, 19, knows the meaning of child abuse—first hand.

She's lived in terror of her father most of her life.

She's been beaten with a belt, slugged, thrown and dragged by her hair. "It was unbearable," she says. "And he did it to all the kids and did it to my mother too. The first time my brother was beaten, he was 3 weeks old."

Molly's father beat her and the others when he was drunk. He beat them when he was sober.

Today, Molly lives in an apartment by herself in a Twin Cities suburb. She bares the emotional scars of a battered child.

Molly's name is ficticious. Her story is real. Prof. David Gil of Brandeis University, an expert on child abuse, estimates that as many as two million youngsters are the victims of child abuse in the United States each year. But he says that no one knows exactly how many. Most child abuse goes unreported. Gil estimates that from 500 to 1,000 children each year are beaten to death.

The case of Molly Johansen is an extreme one. Evidence of less severe abuse of children is far more common.

The Child Protective Services of Hennepin County, for example, says that 85 percent of its cases of physical abuse to children are labeled "moderate"—the bumps, bruises and welts that mostly come from beatings.

Often a family or personal crisis is the precipitating cause of the beatings.

"We're all potential child abusers," says Martin Coyne, a unit supervisor in Child Protective Services. He says he believes that physical punishment "is an extreme punishment and frankly it should be resorted to seldom, if ever."

To help parents come to grips with child abuse, a program has been launched by the Hennepin County Mental Health Center at Hennepin County General Hospital.

At weekly Monday evening group sessions, parents are encouraged to discuss problems with child discipline. Marsha Eldot, a psychiatric social worker, says the group is for parents who have concerns about mistreating or neglecting their children.

"The purpose is to help parents learn more appropriate child-rearing practices," she says, "and to let them know that they are not alone in their problem. We want to offer support to parents."

She says she hopes the sessions will help stem the abuse problem before it becomes "severe." The hospital also has available a Crisis Intervention Center and, along with Child Protective Services, does education on child abuse in the community.

Psychologists and social workers interviewed last week appear to agree on one basic precept: Parents who engage in child abuse, for the most part, love their children. But in a family beset with problems, the kids can become the scapegoats.

David Malone, 38, a south Minneapolis construction worker, accepts "95 percent of the blame" for the beatings he administered with a belt to his two children a year ago.

Malone is separated from his wife. After the beating, the children ran to a neighbor's house, the neighbors called police and eventually the children were taken away by welfare officials and placed in a foster home. Malone feels he was tricked into giving the children up by the Child Protective Agency.

But a year later, Malone talks about the beatings calmly. "I came home one day and caught my 8-year-old son teaching his younger sister how to strike matches," Malone says. It had not been the first time he'd seen the boy playing with matches, Malone says, but this time the anger boiled over. Instead of the usual spanking, he went for his belt.

"Things were building up," says Malone. "Baby-sitting problems, money problems, job problems, I was mad."

Malone has had a number of counseling sessions with a psychologist at Hennepin General. His children will be returned to him soon and today he looks at discipline differently.

When you're about to explode, Malone advises parents, "leave the damn belt alone and instead sit down and talk it out. They may be just kids—but they're human beings. If they're rebelling, they may be doing it to annoy you. So sit down with them and find out why."

In its offices at 407 S. 4th St., the Child Protective Services handled 586 cases last year involving child abuse and neglect. There were five children's deaths in Hennepin County last year believed to be due to child abuse, and six other deaths statewide.

The number of cases of child abuse in the area is "far below the national trend," says Martin Coyne, who works in the agency. "One reason is that the Hennepin County area has nothing that resembles the crowded, deplorable conditions that exist in some major cities of the country."

Coyne says his agency does not regard spanking in and of itself child abuse. But it becomes that, he says "when it is carried to the extreme" resulting in bruises and other injury and "causes undue emotional upset to the child."

Coyne's advice to school and other social service personnel as well as the average citizen is to report child abuse cases to his agency.

"If you know of someone in your neighborhood," he says, "I'd confront him first and say, 'Listen Joe, you cut out beating up your kid or I'm going to report you.' "

When a case is referred to the agency, Coyne says a case worker "responds immediately to preclude further abuse of the child." Coyne says the worker will "begin immediately to work with the family to identify the problem and the solutions which will allow the child to remain in his own home in a secure and satisfactory environment."

He says that 8 percent of the agency's cases involving physical abuse wind up in court. The court may take the child from the parents. The child may temporarily be placed in a foster home.

Coyne says that before parents are taken into juvenile court, the family is "offered services and the parents are either unwilling or unable to protect their child and the parents are unable to make positive changes."

Coyne contends his agency "is not here to punish the parents for wrong-doing, but to protect the children and make every positive effort within our ability and resources available to help families stay together—happily and securely."

Three years ago, Vincent DeFrancis, director of the children's division of the American Humane Association, hailed the county's protective service facility as the best such public agency in the country.

Nonetheless, there is no unanimity on how to combat child abuse.

Gil, author of a 5-year federal study on child abuse, criticizes current approaches by governmental authorities. Gil's study, considered among the most exhaustive ever done in the United States, is reported in his book "Violence Against Children."

Gil says agencies like Child Protective Services and programs such as those that have been launched at General are needed. But he argues that they don't attack the "root causes" of child abuse—the social structure which he says promotes "economic and social inequality.

"Parental abuse is a very minor problem compared to what society does to children," Gil said in an interview last week. "We are using parents as scapegoats. We're making a big noise about parental abuse and we don't pay attention to the legally sanctioned abuse that goes on all the time."

Gil terms the federal program of Aid to Families of Dependent Children (AFDC) as "child abuse on a massive scale." He says that insufficient welfare payments forces children "to exist at a level that is inhumane."

"Children are not fed properly," Gil says. "They are not housed properly. Other families won't let their children play with an AFDC child which interferes with their development."

Gil says that child abuse is a symptom of general social injustices. Until families lead a harmonious existence and fundamental social changes are made, child abuse will continue, he says.

Indeed, attitudes about children and discipline are changing. Sue Lund, a clinical psychologist, talks about "children's rights." Corporal punishment, once widespread, is now considered child abuse by many in the social work and psychology field, although it continues in some areas.

"Emotional abuse" such as constant berating of a child or swearing at children for example is also viewed today as part of the child abuse syndrome. Some psychologists call emotional abuse more dangerous than beatings, because the bruises will heal, while the emotional scars will remain.

The rise of the women's movement, says Mrs. Lund, has focused the spotlight on the women's role of subservience to her husband. Often the wife's role is confined to raising children. For those who seek careers or a life outside the home, staying with the children 24 hours a day can increase family tensions.

Welfare case records show that women, more than men, are responsible for physical child abuse.

"I need to get out of the apartment sometimes," says a mother who participates in the group sessions at Hennepin County General Hospital. "If I can just get away from these four walls and be by myself sometimes, it can relieve the tension."

The mother said that at times she has beaten her infant if the child didn't behave.

"I'd hit him," she says, "and then I'd ask myself, 'What am I doing.' "

Now she's attending the weekly sessions and says she's learning she's not the only parent with problems. She says she's beginning to understand herself. Discussing the problem, the mother says, "is what I need."

SOME 60,000 CASES—600 DEATHS

(By Gordon Slovut)

A doctor in Minnesota—or any other state—is legally required to report suspected cases of child abuse to the proper authorities.

The laws protect the doctors against liability suits "regarding release of information."

So says Dr. Barton Schmitt, pediatric consultant to the National Center for Prevention and Treatment of Child Abuse and Neglect, but he adds:

"Despite these laws, physicians sometimes go to great lengths to avoid diagnosing child

abuse. They often fear that detection and reporting of child abuse will require them to personally treat this complex psychosocial problem.

"The responsibility for proper treatment rests with the child protective agency in the community—not with the physician."

Schmitt, who took this internship and residency training in pediatrics at the University of Minnesota Hospitals, is on the staff of the University of Colorado Medical Center. He was in the Twin Cities recently to address the annual meeting of the Minnesota Academy of Family Physicians.

During that appearance, he told the doctors that they aren't playing it safe if they fail to report suspected cases.

Doctors can be prosecuted under criminal law for failure to report such cases and there is a case in California where a doctor is being sued in a civil action on grounds that he should have reported a case of child abuse, Schmitt said.

In the United States, he said, child abuse happens to 60,000 youngsters per year—and 600 of the cases end in death.

There are, says Schmitt, five general classifications:

Physical abuse. These involve injury in anger (a parent hits a child for misbehaving), harsh punishment (such as dipping a child in scalding water), accidents due to neglect and deliberate assault or murder.

Nutritional neglect. This is the most common cause of underweight infants—60 percent of the cases of failure to thrive are caused by this. These infants, when kept in a hospital, usually start gaining weight quickly.

Sexual abuse. A stepfather or a mother's boyfriend is more likely than a natural father to be involved.

Emotional abuse. Continual scapegoating, terrorizing and rejection of a child. This is difficult to detect, but "these children are eventually physically abused, abandoned or imprisoned in their room."

Medical-care neglect. When a child with a chronic disease deteriorates because the parents ignore medical recommendations, "reporting and foster placement may be indicated."

Schmitt says most parents who abuse their children were abused as children and "are often lonely, immature, isolated, unloved, depressed and angry people."

He said doctors sometimes can diagnose child abuse by detecting several symptoms.

These can include no explanation for an injury, a description of the injury that is vague, bizarre or variable; the baby is so young the type of accident, such as a fall, is unlikely to have caused the damage; accidents happen repeatedly; parents have delayed in seeking medical care; parents disappear during the child's admission to the hospital; the child hasn't had immunizations and there have been previous, untreated illnesses, and the child's condition in the hospital doesn't bear out the parent's contention that the child has a poor appetite, vomits a lot or has diarrhea frequently.

He also told the doctors there are a number of "signs" of abuse such as tiny hemorrhages in the retina of the eye—damage that can occur from severe shaking of a child by his shoulders.

What should a doctor do when he suspects the basis for a problem is child abuse or neglect?

The first thing, says Schmitt, is "hospitalize the child' to give him protection "until the safety of his home can be evaluated."

What's the outlook in child abuse cases?

"In cases of child abuse where the child is returned to his parents without an intervention, 5 percent are killed and 35 percent suffer permanent physical damage from repeated abuse," Schmitt said.

"The untreated survivors also have emotional problems. Physically abused children often relate violently to the world when they grow up; emtionally deprived children often relate only shallowly to people.

"Early detection and intervention are mandatory in the syndrome known as the battered child."

In a city of 100,000, he said, 30 cases of child abuse can be detected every year.

In a metropolitan area of 2 million persons, such as the Twin Cities area, that would mean 600 cases could be detected every year.

Does the fact that fewer than that are reported mean there's less child abuse in the area?

"When neglect cases are vigorously reported," he says, "their numbers will equal the (projected) figures," Schmitt said.

CAPTIVE NATIONS WEEK

Mr. BEALL. Mr. President, this week, pursuant to an act of Congress in 1959, we in this coutry mark Captive Nations Week. It is a time when we reaffirm our continuing sympathies and concerns for those people throughout the world who seek freedom and individual self-determination, but are forcibly prevented from reaching these priceless goals.

Our country has over the past months moved toward developing improved relations with all nations of the world. However, we must not allow these new relationships to mask the fact that millions of citizens in the captive nations still long for liberty. We must continue to remember these people, and their desires. As the principal spokesman for freedom in the world today, our Nation can do no less.

SENATOR WEICKER AND FAMILY

Mr. HOLLINGS. Mr. President, on July 14, the Parade Sunday supplement in newspapers all across America featured a cover story on our friend and colleague, LOWELL WEICKER. Reading the article in my hometown News & Courier/Charleston Evening Post, I was struck by the perceptiveness of the profile as written by Mr. Lloyd Shearer.

Here is a portrait of a Senator deeply and totally dedicated to a government by law under the Constitution. Senator WEICKER minces no words, and he hits the nail on the head when he says:

I'll tell you this, most of the time we've gone wrong in this country, we've gone wrong because we departed from the U.S. Constitution and its spirit and tried to do things differently.

During the past year, people all over the Nation have had an opportunity to get to know this man better, and their response to his straightforward and uncompromising search for the truth has been very affirmative. People are looking for political leaders who believe in the people—believe in the Constitution—believe in America. If the turmoil of the past many months proves anything, it is that the heart and soul of America is clean and strong—the people still cherish their ideals. It is leadership that has failed. And it is through the efforts of people like LOWELL WEICKER that trust and confidence and truth will be restored to political office.

Mr. President, I hope that my action in requesting insertion of the Parade profile, will not embarass my good friend from Connecticut. I put it in the RECORD in order that those who may have missed the article will have a chance to read it, because it is the kind of thing we need to be reading.

Mr. President, I ask unanimous consent that Lloyd Shearer's penetrating story in the July 14 Parade be printed in the RECORD.

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

LOWELL THE LION-HEARTED: A PROFILE OF SENATOR WEICKER OF WATERGATE FAME

(By Lloyd Shearer)

WASHINGTON, D.C.—Before Watergate, Lowell Weicker, Jr., 43, first-term Republican Senator from the Democratic state of Connecticut, enjoyed one signal physical distinction: at 6 feet 6 he was the tallest member of the U.S. Senate.

Today, maverick Weicker, by virtue of his Watergate committee behavior and oratory, had developed another distinction, a moral one which positions him as the most vocally idealistic member of the U.S. Senate.

While cynics and diehards have sought to rationalize the evils of Watergate in terms of traditional politics, i.e., "They all do it . . . Politics is a dirty business . . . Every other administration has done the same things, sold out to big business, wiretapped enemies, pulled fast ones for major campaign contributors. . . ."—man-mountain Weicker has doggedly rejected the infection of such rapidly spreading moral jaundice.

"I don't want to hear that everybody does it," he bellows. "I come from the state of Connecticut, and I can only relate to the experience I've had in politics and government, [three terms in the state assembly, one term in the U.S. House of Representatives, 3½ years in the U.S. Senate] and believe me, everybody does not do it.

"This country is a decent place, peopled by honest, decent men, and that includes politicians. To say 'Everybody does it,' is to describe a pervasive rottenness that just doesn't exist in the United States, and I refuse to believe that it does.

"Do you know what to me was the most surprising, profound, and meaningful revelation of Watergate?" he asks. "It was," he declares, his words tumbling so fast that they trip over each other, "the incredible abuses committed by our law enforcement and intelligence community—the FBI, the Justice Department, the Internal Revenue Service, the CIA, the Secret Service, the military.

SOMETHING NEW

"Influenced by the White House, the abuses of these agencies have been unparalleled, at least to my knowledge, in the modern history of this country."

Removing his spectacles, rubbing his bright blue eyes, running the fingers of his right hand through his sand-color hair, Weicker asserts: "We can live with or without Richard Nixon. To me he is no more important than the four Cuban-Americans or any other individuals involved in Watergate. Individual guilt or innocence is something that has and will be determined by the judicial process, or, in the case of the President, by the Congress.

"In my judgment the major lesson of Watergate is that we cannot live with government agencies that are influenced or pressured to impose conformity of thought and action upon the people of this country by equating dissent with disloyalty.

"I pick up a newspaper," Weicker explains in mild outrage, "and I read that several weeks ago the FBI investigated Don Santarelli who happens to be a former law enforcement official himself. Santarelli is a

Nixon loyalist, if you will, yet he makes a speech in Norfolk, Va., in which he questions police crime statistics.

GETTING ANGRY

"Some people obviously disagree with him; so they pressure the FBI into sending an agent down there to check out what it was he said.

"Now I'm getting damn mad about all this business. The FBI has many valid functions to perform, but checking out citizens who disagree with them is not one of them.

"The same thing with the IRS. It has many valid functions to perform, but auditing and harassing American citizens on a so-called political enemies list is not one of them either. Neither is it the damn business of the IRS to audit the taxes of anyone who attends a rock festival."

(It was Lowel Weicker who, conducting his own investigation, revealed early this year a startling status report of a special compliance group organized inside the IRS in 1969, to collect information on all persons or groups advocating so-called extremist views.)

"Do you realize," Weicker says, "that this special compliance unit was supposedly set up to keep tabs on terrorist, subversive, and militant organizations. Yet in the hundreds of documents we examined, there wasn't one terrorist, one subversive, on militant individual or organization. The list consisted of Lowell Weickers, people like you and me."

Senator Weicker, who attended Culver Military Academy as a boy and later served as a lieutenant in the Army (1953–55), is a friend of the military. He has also supported Nixon's Vietnamization policies, "but how in heaven's name," he explains, "can anyone read Department of Defense surveillance reports about Army agents breaking into a guy's room in Berlin, an American civilian, and finding an autographed picture of George McGovern on the wall and not get angry?

"Now, gosh darn," he fumes. "I think it's incredible that our military men in Berlin have enough time on their hands to go chasing around, investigating American civilians who are guilty of the great crime, supporting Sen. George McGovern.

WHITE HOUSE MEMO

"Let me give you another example," he continues. "I write a column for weekly newspapers in Connecticut, and in a column I wrote several months ago, all I did was to reprint a memo written on White House stationery—and to me "The White House, Washington, D.C., is an address which has always represented integrity, honor, and decency.

"The memo was from Jack Caulfield to John Dean. In black and white, it sets forth a contemplated breaking and entering and burglary of the offices of Potomac Associates, one of those think-tanks. That memo speaks for itself in a thousand different, awful ways.

"It sure drives me up a wall when I think of all those guys over at the White House in 1972 who wore American flag lapel pins while they advocated burglary, wiretapping, committed perjury, impugned the patriotism of those who disagreed with them and tossed due process into the shredder."

BLAMES THE PUBLIC, TOO

Weicker blames not only the Nixon Administration and its unquestioning fanatics for Watergate, but he also blames the American electorate. "The quality of political ethics in a democracy," he states, "is determined by the voting public. In 1972 the electorate demanded peace at any price, quick answers to complex problems. It sought to protect accumulated wealth rather than expand opportunities for the poor.

"My feeling is that we have reached the point now where we have to decide what kind of democracy we want.

"Democracy," he declares, "is bloody inefficient, especially when it comes to law and order. The motif of the Constitution and the Bill of Rights is the importance and dignity and liberty of the individual, the freedom to blossom and flower and develop and grow and experiment as a person.

"If law and order is the prime requisite of our society, then there are other forms of government which are far more efficient. Our Constitution does not guarantee a structured peace. In fact it guarantees trouble, because it encourages a nation to strive, to seek out trouble, to find out where the raw spots are.

"I remember Martin Agronsky, the newsman here in Washington, telling me about one of his last interviews with the late Supreme Court Justice Hugo Black. Martin interviewed Black after the Supreme Court handed down a group of decisions which made it more difficult to convict criminals. Justice Black said, 'Martin, the whole Bill of Rights makes it more difficult to convict in America. It is far more difficult to convict a man if he has the right to a jury trial, the right to counsel. One of the major purposes of the Constitution and the Bill of Rights, our system of justice and its principles, is to make it damn difficult to close the prison doors on an American."

FOLLOW THE CONSTITUTION

Weicker maintains, "We've had less law and order in this administration, because people departed from the Constitution. Those guys over at the White House thought to voice dissent was to be disloyal, that those of us who disagreed were traitors. I'll tell you this, most of the time we've gone wrong in this country, we've gone wrong because we departed from the U.S. Constitution and its spirit and tried to do things differently."

It is inevitable that any Republican who so forcefully criticizes an incumbent Republican administration will stimulate retaliation. Weicker's mail advises him, among other things, to "go back to Russia where you obviously come from," to "stop betraying your country," and to "quit shooting your mouth off, because you're nothing but a stupid, silly jerk without an ounce of patriotism."

The Senator finds the equation "Disagreement equals disloyalty" particularly vexing. "Such logic," he points out," reflects the attitude of the Nixon Administration which sought to "get" the guys who disagreed with their policies.

THE PRESIDENT S SUPPORTERS

"Last year in February," he narrates, "I was invited to the White House for a 'Peace with Honor' reception. I learned that invitations were extended, not to the whole Congress in celebration of getting us out of Vietnam, but only to those of us who had supported the President's position. Since the reception was designated 'Peace with Honor' the implication was clear—those who had disagreed either did not want peace or they were dishonorable men and women.

"Apparently it never occurred to the White House that the people who doubted the correctness of our role in Vietnam were just as patriotic and helpful in getting us out of the quagmire as were the President and his supporters.

"Just thinking about that got me so mad I refused the invitation, and I haven't been asked back since. My role in Watergate," he adds, "was not one to endear me in the hearts and minds of the palace guard who extend White House invitations. No matter—I couldn't care less. No man should place popularity above principle."

Weicker suspects that "I'm never going to be anybody's darling—the Republican Party's or the Democratic Party's because I'm too outspoken, and I prize my independence too highly." Which is why he insists he has no designs on higher political office. "I don't want to be Vice President. I don't want to be President. All I want is to remain a U.S. Senator. I behaved the way I did in Watergate out of principle, not because I wanted to make a name for myself and climb the political ladder. I saw evil, and I exposed it.

"Hell, I'm no wild-eyed liberal who hates Nixon and everything on the conservative side. I supported Barry Goldwater very vigorously in 1964, and in 1968 I delivered four of our delegates to Richard Nixon. People who doubt my loyalty to the Republican Party forget the summer of 1972.

"There was a young Republican from Mississippi, Gil Carmichael, well-qualified, sensitive, intelligent, progressive, who was runing against Jim Eastland. I have nothing against Senator Eastland, but he's a Democrat. Carmichael, far more conservative than I am, truly representative of Mississippi, was a superb opposition candidate, but Agnew and Nixon abandoned him. They wouldn't support a Republican against a Democrat. I, myself, I had to go around the Senate and get 12 other Senators to come out in Carmichael's behalf. We found out during the Watergate hearings that there was a White House strategy to abandon certain Republican candidates when they were running against Democrats who were in tight with Nixon, and Jim Eastland is of course one of those Democrats.

"Then during the same summer, if you recall, there was the Youth for Nixon organization. I saw their operation in New Hampshire; and I considered it pretty much of a fraud operation. I called up Bob Dole [Senator Dole was Republican National Chairman], and I told him that insofar as Connecticut was concerned, I wanted the Young Republicans separated from the Committee to Re-Elect the President and placed under the Republican National Committee. The way that Committee to Re-Elect the President maneuvered—you could smell them a mile off."

Lowell Weicker, who describes himself as "scrappy, competitive, honest, and independent," has the wherewithal to remain so.

NO NICKNAME

He was born into a wealthy family in Paris on May 16, 1931, and christened Lowell Palmer Weicker Jr. "I've never had a nickname. People have always called me Lowell."

Weicker is the second son of Lowell P. Weicker and the former Mary Bickford Paulsen. His father was manager of foreign operations for the family business, E. R. Squibb & Sons, the well-known pharmaceutical house, at the time baby Lowell was born.

"My grandfather, Theodore Martin Weicker," the Senator explains, "came from Darmstadt, Germany, to this country about 1890 or so. He was a graduate chemist from the University of Heidelberg, and he had a job as U.S. branch chief for Merck & Co. He met Dr. Squibb, a pharmacist in Brooklyn, and together they set up what was to become a most profitable business. Grandfather Weicker acquired a controlling interest around 1904 or '05 and served as a leading officer of the company until he died in 1940."

CITY AND COUNTRY HOUSES

Weicker and his two brothers and sister were reared in New York City (Park Avenue), Long Island (Oyster Bay) and Connecticut (Greenwich), attended a series of expensive private schools. Lowell went to Buckley, Culver Military, prepped at Lawrenceville, entered Yale where he rowed, debated, majored in political science. One of his classmates was William F. Buckley, the vocabularian, TV performer and conservative columnist.

After graduating from Yale in 1953, Weicker served in the Army for two years, then entered the University of Virginia Law School, where he was graduated in 1958.

In 1953 he married Marie Louise "Bunny" Godfrey, a "Navy brat" from Rye, N.Y., whom he claims to have met at a Phi Gamma Delta houseparty at Yale. After "Bunny" was graduated from Connecticut College, having majored in psychology, they met again in

Paris. She went to work as a researcher at Fortune magazine, gave it up to marry Weicker and spend the next five years at Fort Sill, Fort Bragg, and Charlottesvillle, Va., where the first Weicker child, Scot, was born. The Weickers have two sons, Scot and Gray, and an adopted son of sorts, Brian Bianchi. Brian's parents were close friends of the Weickers. When they died recently, the Senator and his wife asked Brian to move in with them. They have since become his legal guardians.

Lowell Weicker entered politics two years after he was admitted to the Connecticut bar in 1960. He was elected to the Connecticut state assembly for three terms, simultaneously worked as Greenwich's First Selectman, the equivalent of mayor, and earned good marks in the suburb of the millionaires by keeping the local tax rate low.

In 1967 he decided to run for Congress. He campaigned long and hard—"I lost 35 pounds in the campaign"—but won the seat in the House, representing Connecticut's Fourth Congressional District.

As a freshman legislator, Weicker drafted an amendment to the Housing and Urban Development Act of 1969, insisting upon the replacement of demolished housing units on a one-for-one basis. The legislation was passed, earning Weicker the reputation of being a "comer."

Three and a half years ago, "even though it meant facing my eighth election in eight years," Weicker decided to run for the U.S. Senate seat held by the late Sen. Thomas Dodd, a politician with an inordinate liking for money and alcohol. In a three-way general election against Dodd, who ran as an independent and Joe Duffey, who ran as the Democrat, Weicker, representing the Republicans, was elected with 42 percent of the vote. Duffey, who got 34 percent, and Dodd, who received 24 percent, killed each other off, allowing Weicker to win with only a plurality.

HIS COMPANIONS

It was the veteran Hugh Scott, Senate minority leader, who recommended Weicker for the Watergate committee and thereby brought him into national prominence. The other two Republicans on the seven-man committee was the quick-tempered, hapless Edward Gurney of Florida and the diminutive front-runner Howard Baker of Tennessee.

Of these three it is probably Weicker whose performance was most memorable, particularly his emotional outburst on June 28, 1973 that "Republicans do not cover up . . ., do not . . . threaten, do not commit illegal acts. And God knows, Republicans don't view their opponents as enemies to be harassed." It was a brief but moving speech which prompted an immediate, enthusiastic ovation by spectators in the Senate Caucus Room.

During the course of Watergate, Weicker, relying on his own team of researchers, supervised a separate investigation of relevant scandals. His men uncovered scads of incriminating documents—on the IRS; on the U.S. Army files on politically active Americans in Germany; on the Nixon domestic intelligence plan originated by Tom Charles Huston, a White House aide, and subsequently vetoed by J. Edgar Hoover because it was patently illegal; on the dirty tricks engaged in by Nixon politicos, and on much more, all of which he released to the full Senate committee. And all of which transformed him from a relatively unknown Senator into a national figure.

OPPOSES PARTISAN JUSTICE

As a result of his Watergate research, Weicker says, "I'm seriously thinking that the Attorney General of the United States should be elected by the people instead of being appointed by the President. Attorneys General are elected in about 40 states and territories, and I'm inclined to believe the same should hold true in the federal government. We can live with partisan politics in this country but not with partisan justice. The Attorney General of the U.S. should be held accountable for his actions by the people and the greatest accountability is achieved through the electoral process."

Weicker believes, too, that Presidential aides like H. R. Haldeman and John Ehrlichman should be confirmed by the Senate. "Men like those," he points out, "had far more power than Cabinet members who have to be confirmed. The Senate should have some basic information beforehand about the men the President proposes to place in positions of power and influence. If that had been the case I can assure you that I wouldn't have voted to confirm a hater like Bob Haldeman."

CAREFUL STRATEGY

Although he is on occasion blunt and characteristically outspoken, Weicker does his homework before he takes a position on anything. He is a responsible man who thinks problems through, which is the same way he plays tennis. Strategy lies behind his strokes, just as thought lies behind his words.

"There are many people," he concedes, "who are far more gifted than I am in looks, intelligence, charm and a lot of other qualities. But I tell you this, I try hard, I fight hard, I work hard, and despite Watergate, I remain an incurable optimist."

ACQUISITION OF MARCOR CORP.

Mr. BROOKE. Mr. President, on June 18, in the CONGRESSIONAL RECORD, I commented on the proposed acquisition by the Mobil Oil Corp. of Marcor Corp., the parent company of Montgomery Ward and the Container Corp. I also asked for unanimous consent to insert in the RECORD the text of a letter of inquiry I had sent to Mr. Rawleigh Warner, Jr., chairman of the board of Mobil Oil.

I have now received a reply from Mr. Warner and ask unanimous consent that it be printed in the RECORD following these remarks.

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

MOBIL OIL CORPORATION,
New York, N.Y., June 28, 1974.

Senator EDWARD W. BROOKE,
U.S. Senate,
Washington, D.C.

DEAR SENATOR BROOKE: This is in reply to your letter of June 18 concerning Mobil's possible acquisition of a major interest in Marcor. I am glad to have the opportunity to give you the facts, and I am particularly pleased that you touched on the relationship of earnings to investments.

I believe the attached copy of a letter to our shareholders that is going into the mail today is self-explanatory. I should like to make a few additional points in order to be fully responsive to your letter.

You say it has been suggested that a significant fraction of the proposed acquisition will be financed by Mobil's 1973 profits. This is demonstrably not the case, and could not possibly be. Our capital and exploration outlays in 1973 exceeded our profits of $849 million by approximately $485 million; which is to say, an amount equivalent to our entire earnings last year and close to half a billion dollars more has long since been spent. Nothing, I think, could better make the point that you raise: that higher oil company profits than in the past are needed to fund increased exploration and drilling costs and other costs. Since we would use other sources of money to acquire a major interest in Marcor, there is no inconsistency involved.

The only constraints we see on future investments in the oil business are those imposed by government. In view of the rhetoric directed against the oil industry, and the manifold threats of punitive legislation against it, it strikes me that the wonder is not that oil companies may be looking into diversification opportunities, but rather that they are continuing to invest record sums in the oil business.

I hope this information will be helpful to you. If you have further questions, please let me hear from you again; I consider this a very important matter and one on which people need facts. If you wish to pursue it further, we will arrange for one of our senior people to visit with you in Washington.

Again, I thank you for writing and for giving us the opportunity to put the facts before you.

Sincerely,

RAWLEIGH WARNER, Jr.

MOBIL OIL CORP.,
New York, N.Y., June 28, 1974.

TO ALL MOBIL SHAREHOLDERS:

As many of you know, Mobil has announced that it is considering the acquisition of a major interest in Marcor Inc., the parent company of Montgomery Ward & Co., Incorporated and Container Corporation of America.

We believe we have sound reasons for this move. Marcor management has performed well under difficult circumstances and has made substantial progress over the years, against very tough competition. We believe the resources and strengths Mobil can provide would enable Marcor to be even more competitive. The acquisition of a major interest in Marcor would put us into business fields different from those we are now in, with different business cycles. It also would offer us the opportunity to obtain a new and substantial source of income in the United States. In 1973 we purchased 1,235,000 shares of Marcor, which represents about 4.5% of the total shares of Marcor common stock outstanding.

The announcement of what we are considering has understandably raised a number of questions, which I will try to answer for you in this letter.

We have no intention of withdrawing from the oil business, nor in fact even of minimizing our role in oil. The vast majority of our capital and other expenditures will continue to be made in the oil business and in related energy businesses for as long ahead as we can see into the future. We cannot, however, ignore the many charges that have been directed at the oil industry by politicians and some segments of the communications media, nor the fact that more than 3,000 bills have been placed before the Congress with the intention of inhibiting the oil industry in one way or another.

Mobil has had a formalized diversification policy for a number of years. We have conducted a thorough analytical study, and Marcor emerged as a company that meets the many rigorous tests we applied—including the need for the strengths we can bring to it to make it an even stronger competitor.

While a diversification investment necessarily lies outside the energy business, we have no intention of becoming a multifaceted conglomerate. We are considering this step because we are satisfied that this would be a fine investment for your company and one that could over the years ahead, add immeasurably to the over-all strength of the Mobil organization and thus to your investment in Mobil.

Now let me enlarge on these points a bit.

With respect to our continuing investment in the oil business, we are still planning to spend a record $1.5 billion on capital and exploration outlays in 1974, in addition to the possible acquisition of Marcor. Our outlook for the five-year budget period immediately ahead is for continued record expenditures,

assuming that the government of the various countries in which we have interests don't do things that will dramatically interfere with our ability profitably to produce oil and to transport it, refine it, and market it. Our capital expenditures will respond appropriately to such opportunities to earn attractive rates of return as may be afforded us by the governments of both producing and consuming countries. We are optimistic that we will have opportunities to earn such rates of return on substantial amounts of capital in the oil business.

I said earlier in this letter that, as the result of our long and detailed analysis, we are favorably impressed with Marcor management and we consider this a sound investment. It follows then that if we prove successful in this acquisition, it is our intention to work with and support that successful management team and to help provide it with the resources it needs to become even more competitive. We would, of course, play a role appropriate to a substantial and concerned investor and owner. Since we believe in the Marcor management, we also believe its members would continue to be as enthusiastic as they are now and would see that equal or greater opportunities lie ahead for them.

This is in the nature of a preliminary explanatory letter to you. While your board of directors has accepted in principle the desirability of this investment and diversification, we have not yet reached a conclusion on the price to be offered for Marcor stock. But with our long-term debt at only 16% of our invested capital, we are satisfied that we have the financial flexibility to make this acquisition and still continue to take advantage of such opportunities as are made available to us in the oil business.

I would like now to address myself to some of the derogatory comments that have been directed at the oil industry and specifically at Mobil. These revolve around such charges as "extortionate" or "obscene" profits, failure to spend enough on oil in the United States, and failure to build enough refining capacity in this country.

In 1973 our net income represented 7.4% of revenues—that is to say, 7.4¢ out of every dollar—and our rate of return on average total assets was 8.5%. In each instance this was the highest figure, by a major factor, in the past 10 years; and in our view these key indices of profitability are neither extortionate nor obscene.

To the charge that we have been investing more money overseas than here, it should be understood that each of the past 10 years has shown a higher percentage of such outlays in the U.S. and Canada than in all the rest of the countries where we have interests. This is true with respect both to capital investments and to exploration expenditures.

In the period beginning with the federal lease sale held in December of 1970, Mobil has spent more money on offshore leases in the Gulf of Mexico than any other oil company—$850 million, including $330 million so far in 1974 alone.

It should also be known that your company constructed the most recent large new U.S. refinery, in Joliet, Ill., the biggest ever built from scratch in this country. Further, we are now in the process of trying to expand and modernize our refinery at Paulsboro, N.J. By the time we hope to have received all the necessary clearances and permits from the various federal and state agencies involved, we will have committed more than $80 million in the clear hope that we shall receive those permits that will allow us to spend more than $300 million on that expansion and modernization.

In light of the charges made against us, I cannot help but feel that the Senators and Congressmen who have been attacking the oil industry in general and Mobil in particular would serve their country better by increasing the opportunities and improving the climate for investment in oil than by making what we believe are ill-informed statements and by threatening punitive legislation against oil companies. To cite only two specific examples, the Congress could move to open up the outer continental shelf offshore our East and West coasts to oil exploration, and it could facilitate the siting and expansion of refineries in this country.

We in Mobil management would not want you to think we are immune to the criticism being leveled at us. We are not, but neither are we frightened by it. Rather, we believe the Marcor investment would represent a right move for your company; that it could only help to strengthen the organization; and that we are most hopeful of bringing this diversification move to a successful conclusion.

When and as we have more to report, we shall be pleased to do so.

Sincerely,

RAWLEIGH WARNER, Jr.

Mr. BROOKE. Mr. President, I have again written Mr. Warner restating two issues outlined in my earlier discussion. I ask unanimous consent that this letter also be permitted in the RECORD.

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

U.S. SENATE,
Washington, D.C., July 18, 1974.

Mr. RAWLEIGH WARNER, Jr.,
Chairman of the Board, Mobil Oil Corporation, New York, N.Y.

DEAR MR. WARNER: Thank you for your response to my letter concerning the proposed acquisition of Marcor Corporation by Mobil Oil and for supplying me with a copy of your letter to Mobil shareholders. As I had placed my original letter to you in the Congressional Record of June 18th, I am inserting your response in today's Record, together with this letter and some additional comments.

My original letter and statement were motivated by two concerns. First is the continuing trend toward the concentration of economic power in the United States. It seems to me that traditional free-market forces are less able to operate as decisionmaking is concentrated in fewer and fewer hands. The social and economic impact on individual citizens of an increasing feeling of impotence and of their inability to affect their own fate imposes on government the obligation to act in behalf of the public interest to maintain a balance between corporation profit motives and as free a market place as can be obtained in our mixed economy.

My second concern is more specific. I must tell you that the information you supplied relative to the relationship of profits, the need for increased capital to finance exploration and drilling costs, and the Marcor acquisition, was less than compelling. It appears irrelevant to discuss which dollars are used for drilling costs and which for acquisitions. The point is that Mobil has generated sufficient capital and cash flow for both purposes, and at a time when the public is paying the highest prices in history for your products.

To argue that high profits are necessary for expanded drilling and exploration while stating that the capital for acquisition comes from other sources is puzzling. Without unusually high prices, the other capital sources would have to be utilized for that portion of exploration and drilling costs now covered by profits. To further suggest, as you do in your letter to your shareholders, that "Senators and Congressmen . . . would serve their country better by increasing the opportunities and improving the climate for investments in oil . . ." is to ignore that fact that you have yet to demonstrate a reasonable justification for your present rate of profit increase or to rebut my earlier suggestion that increased profits are being used to increase economic power rather than expand exploration for new energy sources.

Sincerely,

EDWARD W. BROOKE.

Mr. BROOKE. Mr. President, I must add, Mr. President, that I am concerned about the implications of the stated intentions of the management of the Mobil Oil Corp. to move this acquisition to a successful conclusion. I assume that the Justice Department's Antitrust Division is already researching the affair. And I hope my colleagues, Senators HART, and HRUSKA will consider utilizing the Antitrust and Monopoly Subcommittee of the Judiciary Committee to investigate fully the relationship between increased oil company profits and the utilization of those profits to increase the concentration of economic power in an economy already capable of sustaining double digit inflation and a high rate of unemployment simultaneously.

LAMAR SIZEMORE

Mr. TALMADGE. Mr. President, last Monday, citizens of the city of Atlanta and people throughout all Georgia were saddened by the untimely passing of Lamar Sizemore, one of Atlanta's foremost attorneys, an outstanding civic and business leader, and a man of considerable influence in government and politics in Georgia for many years.

During my administration as Governor of Georgia, Mr. Sizemore served as an assistant attorney general, and over the years we developed a very close personal relationship. Lamar Sizemore was a man of great intelligence and insight, and a gentleman of unquestionable honor and integrity. Atlanta and Georgia have lost a great leader, and I have lost a great friend. I mourn his passing and extend my deepest sympathy to the Sizemore family.

There appeared in the Atlanta Constitution and Journal news articles and editorials of Mr. Sizemore's passing, and I bring these to the attention of the Senate and ask unanimous consent that they be printed in the RECORD.

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

[From the Atlanta Constitution, July 17, 1974]

SIZEMORE—MANY DIDN'T REALIZE HIS INFLUENCE

(By Sam Hopkins)

Atlanta attorney Lamar Sizemore could be such an unassuming man with his slow countrified drawl that probably many of his friends never realized the vast influence he had on state government down through the years.

Sizemore, who died of a stroke Monday night while on a business trip to New York, often was the "mastermind" behind many political events and the confidant of governors, U.S. senators and legislative leaders.

Atty. Gen. Arthur Bolton Tuesday called Sizemore "one of the most ethical lawyers" he had ever known and a man "who had more guts than any 10 men I knew."

The latter reference was to the fact that Sizemore nine years ago suffered an earlier

stroke that left him partially paralyzed, but yet he afterwards increased his business activity.

Sizemore personally plotted the campaign strategy for Jimmy Bentley's successful race against Compt. Gen. Zack Cravey back in 1962 and then helped Bentley structure the reorganization of the department which many people felt had fallen into disrepute.

Bentley recalled Tuesday that Sizemore did all of this "without compensation."

"Lamar was completely unselfish," Bentley said, "whether he was putting together a political campaign or a political concept. He never wanted to take the credit for anything, and he knew all the major personalities on the Georgia political scene for 25 years. He moved in all the circles of political power."

Bentley added, "Lamar deserved the front row, but he always sat on the back row because that's where he wanted to be."

Sizemore, knowledgeable sources say, was probably as instrumental as anyone else in the appointment of several federal judges through his close friendship with Sen. Herman Talmadge and the late Sen. Richard B. Russell, both of whom trusted his judgment and political skill.

In fact, two close friends of Sizemore's said he could have been a federal judge himself if he had wanted it.

"Talmadge and Russell would have both accepted him as a judge," one friend said. Under the political party patronage system, the U.S. senators in a state must approve of all nominees to the federal bench.

The late House Speaker George L. Smith of Swainsboro was particularly close to Sizemore and often called on him for advice and counsel on legislative and political matters.

A skilled attorney, Sizemore many times through the years was sought out to write legislative bills for the House and Senate.

U.S. Undersecretary of Agriculture Phil Campbell, who was formerly state agriculture commissioner, was particularly close to Sizemore.

Campbell recalled Tuesday that years ago Georgia had one of the weakest milk laws and that Sizemore drew up "one of the tightest Grade A milk laws in the nation.

"But I had to wait five years to get it passed," Campbell said. "That bill sat in the left-hand top drawer of my desk for five years while I was agriculture commissioner until I could catch the dairy people off guard and get it passed."

The statute is still considered the "toughest Grade A milk law in the nation," Campbell said.

Sizemore also was the "mastermind" behind the "Battle of the Budget" in the legislature back in the early 1960's when Ernest Vandiver was governor.

Down through the years governors had eroded the power of the legislature in controlling the appropriation and spending of state revenue.

But in the "Battle of the Budget" the legislature finally wrested control of the budget from the governor and since then has retained the authority of spelling out how state money must be spent.

Back at the time, another of Sizemore's close friends, former state Treasurer Jack Ray, was chairman of the House Appropriations Committee.

Back in the mid-1960's Sizemore was considered the unofficial "general counsel" for what was known as the State Capitol "Clique"—a group of elected state officials who formed a closely knit political force.

The "Clique"—once referred to as the "Wiregrass Mafia"—included Campbell, Bentley, Ray and Public Service Commission Chairman Crawford Pilcher.

For their own political reasons, the "Clique" members, all longtime Democratic figures, suddenly announced they were switching to the Republican Party.

It has been unofficially reported that Sen. Herman Talmadge—who was Sizemore's closest friend—also had planned to switch parties at the time but changed his mind at the last minute, apparently from the political instinct that it might be the wrong move.

Whether Talmadge ever really contemplated that or not, it could have been disastrous if he had because most of the newly turned Republicans were either defeated or forced to retire, with the exception of Campbell, who accepted the Washington job with the U.S. Department of Agriculture.

"Lamar Sizemore," one close friend recalled, "was not only a great guy and one of the really ethical lawyers in the business, but he was as good a political strategist as this state's ever seen."

Another friend commented. "He was a real student and worker at the game of power politics, and as far as I know he never got anything out of it personally. He probably did more to change political history in Georgia than anyone else."

Sizemore, who had been counsel for the state Democratic party and counsel for the Governor's Commission on Economy in Government back in the early 1960's, was a trustee of Mercer University where he received his A. B. and law degrees.

Members of the Mercer's board of trustees will serve as special honorary pallbearers at Sizemore's funeral Thursday.

Funeral services will be held at 11:30 a.m. Thursday at the Patterson Spring Hill Funeral Home in Atlanta, with burial at Arlington Memorial Park in Sandy Springs.

The family asked that in lieu of flowers memorial gifts be made to Mercer University.

Sizemore was to have taken a key part at a meeting of the Mercer trustees in Atlanta Thursday morning. Because of his death, the meeting has been cancelled. Sizemore was chairman of the Atlanta committee for Mercer's capital funds drive.

[From the Atlanta Constitution, July 17, 1974]

LAMAR SIZEMORE

Lamar Sizemore died this week at the ripe young age of 53 and, though he never personally sought any elected office, he probably knew and understood and influenced as many things in Georgia state politics and government as any single individual over the past couple of decades or so.

He was liked and respected by political enemies, as well as friends, and for good reasons.

He possessed sheer raw intelligence in abundant amounts and coupled that with a consistent courtesy and personal charm and quick wit. His judgment and advice were valued by a good many people in government, and he exercised considerable influence for this reason alone, not because he himself held any particular position or public office.

This newspaper, often as not, ended up on the opposite side of things in relation to attorney Sizemore. But he was worthy of respect. And it can be fairly said of him that he loved his state and his country and believed in the political processes and helped make them work.

[From the Atlanta Journal, July 16, 1974]

SIZEMORE RITES TO BE ANNOUNCED

Funeral arrangements for Lamar W. Sizemore, 53, a senior partner in the law firm of Heyman and Sizemore, are incomplete and will be announced later.

Sizemore of 93 Clarendon Ave., Avondale Estates, died Monday, apparently of a stroke, while on a business trip to New York.

He moved to Atlanta in 1950 and in 1953 accepted an appointment as assistant attorney general under the administration of former Gov. Herman Talmadge. He administered the state's Subversive Activities Law and investigated and prosecuted persons and organizations suspected of plotting or acting to overthrow the federal or state government. He was the secretary of the Georgia Democratic party and a member of the national party's credentials committee in 1968 when a group of black state politicians challenged the regular contingent's right to represent the state in the national Democratic convention. He supported the regular delegation, chosen by then-Gov. Lester Maddox and state party chairman James Gray.

Sizemore was counsel for the Governor's Commission on Economy and Reorganization in 1959 and 1960.

He was graduated from Mercer University in 1941 with an A.B. degree and in 1948 he received his L.B. degree from the Mercer Law School.

He was chairman of the Atlanta Committee of Mercer University Capital Fund Drive and was named to Mercer's board of trustees in December 1973.

At the time of his death, Sizemore was a member of the Atlanta and American Bar Associations, the Federal Bar Association, the International Bar Association, the State Bar of Georgia, the Lawyer's Club of Atlanta and the Association of American Life Insurance Counsel.

He was director and general counsel of Interfinancial, Inc., an Atlanta-based holding company with wide spread insurance and related interests, director and general counsel of the Atlanta and West Point Railroad, general counsel of the Georgia Railroad, director and general counsel of Gray Communications Systems, Inc.; director of the Western Railway of Alabama, director of Purolator Services, Inc. and director and general counsel of the Hamilton Bank and Trust Co.

He was a deacon and active member of the First Baptist Church of Decatur and a member of the Board of Trustees of the Richard B. Russell Memorial Library Foundation. He was also a member of the Kappa Sigma Phi Alpha Delta Legal Fraternity, the Capital City Club and the Commerce Club.

Surviving are the widow, Mrs. Elizabeth Pickron Sizemore; sons, Lamar Sizemore Jr., Gregory Sizemore, Alan Sizemore, all of Atlanta; daughter, Kathy Sizemore of Atlanta and brother, Dr. Julian J. Sizemore of Columbus.

EDUCATION BENEFITS FOR VIETNAM VETERANS

Mr. DOLE. Mr. President, I wish to hail the President's signing of Public Law 93–337, which extends the time period in which a veteran must use his education benefits from 8 to 10 years. I believe that this significant step is tangible proof of the President's commitment to give Vietnam veterans "* * * an opportunity to enjoy not only our public blessings, but also the real benefits of peace—the education, the jobs, the housing, the medical care, the many other advantages that make America a great Nation," as he promised in his March 31 statement on Vietnam Veterans Day.

It is particularly important to note that the President overruled the objections of the Office of Management and Budget and disregarded a formal veto message that had been prepared. Fiscal responsibility is of critical importance; however, I am in concurrence with the President and the majority of Congress in viewing benefits for Vietnam veterans as an investment in America's future. It is an investment that will more than repay by far our initial investment. We will benefit directly from increased tax

revenues and more productive employment coming from better trained veterans.

As I have stated previously, I do not believe that the President will veto the new GI bill increases proposed by Congress. I believe that this is particularly true in regard to the tuition assistance provision of S. 2784, now under consideration in conference committee.

The principal intention of the tuition assistance provision is to give all Vietnam-era veterans an equal opportunity to enter education and training programs and to enable hundreds of thousands of Vietnam-era veterans to use their benefits for the first time. There is room for disagreement as to how much benefits for veterans already in school under the GI bill should be increased, but clearly there should be no disagreement that all Vietnam-era veterans should have an equal opportunity to enter schools.

Many of us benefited from tuition payments after World War II and in my opinion, we should not deny them to today's veterans. I hope the House conferees will recognize the President's actions as an indication that they are at liberty to act on the tuition assistance provision as they judge proper, without regard to the threat of a veto. I urge the House-Senate conference to act swiftly and favorably on the tuition assistance provision so that thousands of Vietnam-era veterans may begin making plans to enter education and training programs this September.

PERFORMANCE ROYALTIES: LONG OVERDUE JUSTICE FOR MUSICAL ARTISTS

Mr. WILLIAMS. Mr. President, for a number of years, I have supported, and in fact, introduced legislation to provide for royalty payments for musicians, other artists and recording companies when their talents are used for public performance. That concept is shown as performance royalty.

The distinguished minority leader, Mr. HUGH SCOTT, is another who has felt most strongly that a sound recording is a unique rendition of a piece of music and that the varied talents that make it possible should be compensated when the recording is played publicly for profit. Mr. HUGH SCOTT was a leading voice in the Copyright Subcommittee and in the full Judiciary Committee when it considered this provision in S. 1361. It is now embodied as Section 114 of S. 1361.

The section represents a considerable compromise from the performance royalty rate as originally proposed. Initially, it was suggested that 2 percent of annual gross revenues of broadcast stations would be a fair basis for unlimited use of copyrighted recordings. This was approved by the subcommittee.

The rate, as reported, now would require 39 percent of all stations to pay only 1 percent with the remaining 61 percent paying lesser amounts. The performance rate for the latter would be a flat $250 a year for stations with income of $25,000 to $100,000 and $750 a year for stations with income of $100,000 to $200,000. Stations with gross revenues of less than $25,000 pay nothing.

The minority leader's thoughtful and persuasive remarks on the subject are contained in his Separate Views accompanying the report on S. 1361.

Because those views are a clear and concise explanation of an important principle, I ask unanimous consent that they be printed in the RECORD at this point.

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

PERFORMANCE ROYALTY (SEC. 114)

I would particularly like to comment on Section 114 of S. 1361. This section requires users of copyrighted sound recordings for profit to pay a performance royalty to those who make a creative contribution to recorded music—performing artists, musicians and record companies. Although a copyright was granted to sound recordings by Congress in 1971, the issue of a performance royalty was deferred until Congress' consideration of the Copyright Revision Bill. Under section 114, entities like broadcasters, juke box operators, and background music services that make use of the recorded music would have to pay a small royalty to the artists for the right to play it.

For many years I have felt very strongly that the musical artist deserves a reward for his creative efforts. Thirty years ago when I served in the House of Representatives, I introduced H.R. 1570 (78th Congress) which would have established a performance right in sound recordings. Later in the 80th and 82nd Congresses I introduced similar bills that would mandate a performance royalty for the musicial artists.

I very strongly support the inclusion of the performance royalty in the present Copyright Revision Bill. Although I realize that the broadcasters, especially, have objections to paying any fee to artists, I believe the principle is important and should be supported. The argument has been made in opposition to the royalty that radio stations give free publicity to record companies and the artists who make the records. I think this argument misses the point. The real issue is whether or not a person who uses creative talents should receive compensation from someone else who takes them and profits from them. More than 75% of the air time during which advertising is sold is spent playing music. I believe if the artist's creative efforts are used in this way that he is entitled to some compensation. The performance royalty in Section 114 establishes a small payment for the right.

It should be noted that the concept of rewarding creative efforts is not at all unprecedented. Presently, the radio and television industries make yearly payments to organizations representing the individuals who compose music. The fees paid to ASCAP, SESAC, and BMI for the composers are far in excess of what the Copyright Bill sets out for a performance royalty. I find it indisputable that the creative efforts of the musical artist who performs are equally as valuable as those of the individual who writes the music. In fact, it is the special creative talents of the musical artist which really bring a particular musical composition to life. In light of this, it is an anomaly that the performers or record companies get *nothing* for their contributions to irreplaceable programming material.

I find it significant that almost forty countries have established performing rights in recordings. These nations have acknowledged the necessity to reward the creativtiy of their gifted musical artists. It should be no less important for us in the United States. It is particularly key to recognize performing rights because of the unique form of activity it entails. We all know by name the famous musical artists who remain popular year after year. Unfortunately, most musical performers have a very short productive life. It is an industry in which tastes and public attitudes toward a certain type of music can literally change overnight. Some artists have only one popular song and are never successful again. If the song is played again at a later time, the artist should be entitled to share in the benefits it bestows on the broadcasters. An example of a song which has endured over a long period is Bing Crosby's rendition of "White Christmas". There must be hundreds of versions of this song, but it is Mr. Crosby's special treatment which is continuingly popular at Christmas each year. He, like any other artist, should share in the fruits of his creative effort even after the actual sale of his records diminishes.

During numerous discussions prior to the Judiciary Committee meeting, there were many statements made to the effect that small radio stations, especially, could not afford to pay a performance royalty. I argued that most stations could easily pass on the 2% rate to their advertising sponsors. For example, if the rate for one hour of advertising was $100, then the rate would go to $102. This clearly would not be an exorbitant increase. However, I do realize that the very small radio station might be in a situation where it could not pass along the 2% rate. Therefore, in the Judiciary Committee I moved to lower the rate (2%) which the bill had originally set. The new formula which was approved gives a substantial measure of relief to over 60 percent of the radio stations in the country. The four percent of the nation's radio stations that have net advertising receipts of less than $25,000 a year would pay no performance royalty at all. Stations with between $25,000 and $100,000 a year from net advertising receipts would only pay a blanket $250 each year. It is significant to note that about 27 percent of all radio stations would fall under the $100,000 figure. For those stations with yearly net advertising receipts between $100,000 and $200,000, only a flat $750 fee a year would be due. In that $100,000–$200,000 range approximately 34 percent of the nation's radio stations are included. Finally, for all stations with above $200,000 a year in net advertising receipts, a royalty of 1% of those net receipts would be due each year. The total revenues under the formula as revised at my recommendation would be significantly less than one half of what revenues would have been under the original 2% royalty rate.

In conclusion, I want to emphasize that the creation of a performance right for sound recordings is entirely consistent with the overall policy approach of the Copyright Bill to foster and protect the creative arts. In Section 116, the bill creates a new performance right for composers when juke boxes use compositions embodied in sound recordings, and Section 115 has been changed to increase the fees record companies must pay composers for use of their music in a recording. Most significantly, the bill establishes new rights in the case where a cable television station picks up broadcast material from the air and retransmits it. Under Section 111, the cable television station must pay a copyright fee under a compulsory license to the copyright owners. I would suggest on the same rationale which the broadcasters have been using to establish liability for the copyrighted material taken by cable systems that broadcasters and others similarly should have to pay for copyrighted musical performances they use for their programming.

Senator Hart has indicated his desire to join me in my views on the performance royalty.

NATIONAL MEDICAL ASSISTANTS' WEEK

Mr. DOMINICK. Mr. President, on June 19, 1974, I introduced Senate Joint Resolution 217, to designate the third week of September of each year as "National Medical Assistants' Week." The American Medical Association House of Delegates recently met in Chicago, and adopted a resolution supporting the American Association of Medical Assistants. I ask unanimous consent that the resolution be printed in the RECORD.

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

AMERICAN MEDICAL ASSOCIATION HOUSE OF DELEGATES Resolution: 109 (A–74)

Introduced by: Frank A. Rogers, M.D. Delegate, California

Subject: American Association of Medical Assistants

Referred to: Reference Committee H (Charles L. Leedham, M.D., Chairman)

Whereas, The American Association of Medical Assistants is not only an outstanding professional organization dedicated to the education and self-improvement of medical assistants, but is the one and only professional organization endorsed and continuously supported through liaison activities by organized medicine at all levels; and

Whereas, It is recognized that the loyalty and allegiance and devotion of the members of this organization to their doctor-employers and to organized medicine in the majority of instances goes well beyond the common grounds of employer-employee relationship; and

Whereas, The Medical Assistants Association is probably the most constant, able and devoted ally of the medical profession; and

Whereas, The American Association of Medical Assistants is a nonprofit organization, totally pledged against ever becoming a union, therefore be it

Resolved, That the American Medical Association hereby commend the American Association of Medical Assistants for their devotion and accomplishments in the field of medical assistant education, both locally and nationally; and be it further

Resolved, That the American Medical Association request all state medical associations to continue active, formal support of this organization and further urges individual physicians to pay the dues of their medical assistants so that membership in this most important and worthwhile organization will continue to grow.

THE CONGRESS AND STRATEGIC ARMS

Mr. FULBRIGHT. Mr. President, the recent summit has underscored the need for the Congress to take the lead in providing broad, constructive guidance in the quest for effective and comprehensive arms control. The process of normalizing relations between the Soviet Union and the United States would have benefited greatly if meaningful agreements had been reached during the recent talks to limit or reduce the strategic offensive arms of the two sides. Despite the apparent last-minute endeavors of the President and the Secretary of State to get good strategic arms agreements, the most positive result of the summit in terms of the arms race was the arrangement by the two sides to resume the SALT talks in August and to provide the two negotiating teams with institutions arising out of the summit.

It was no surprise that further strategic agreements limiting offensive weapons were not achieved at the summit. There was no agreed American negotiating position and no unanimity on the American side as to what should or could be achieved. If we cannot agree among ourselves, we would be wrong to expect that good, comprehensive SALT agreements might somehow be worked out at the 11th hour.

I do not fault the President or the Secretary for their basically fruitless attempts to achieve arms agreements. But I believe their difficulties demonstrate clearly the need for Congress to take a strong hold in the development of broadly abused strategic policies and positions. The proposals which could then be presented in negotiations could lead to the strategic limitations which are now so imperative.

The Senate has played a strong advisory role in regard to strategic issues in the past. I recall Senate Resolution 211, which was introduced by Senator BROOKE and 39 cosponsors in July 1969. In its final form, the resolution urged the President to propose a mutual moratorium on multiple independently targeted reentry vehicles—MIRV's. In its report, the Committee on Foreign Relations noted that a suspension of flight testing of MIRV's would be important to a successful suspension of MIRV deployment. This suspension was viewed by the committee as an "essential element" of a wider suspension of further deployment of all offensive and defensive strategic nuclear weapons. The Senate approved Senate Resolution 211 by a vote of 72 to 6 on April 9, 1970.

The Senate's advice did not bring on the sort of agreement sought. Had the Senate's advice prevailed, the United States and the Soviet Union would be far better off today. And billions of dollars would have been diverted to far better uses.

The need for firm guidance from the legislative branch is particularly acute now. Members of the Congress are in a unique position to take into consideration all aspects bearing upon our strategic military programs—the needs and perceptions of the American public and our allies, foreign policy considerations, the economic situation of the United States and other countries, and the impact of military programs upon our economies and available resources.

Failure to apply this knowledge to the development of independent perspectives can lead to acquiescence in narrow judgments. This problem can be seen in the way the Congress tends to accept and to approve military judgment in the strategic area. The military services, by nature, attach the gloomiest possible significance to Soviet strategic programs. They assume the worst possible outcome for the United States of all strategic endeavors of the Soviet Union. I do not fault them for this because it is their charter to assume the worst may occur and to defend us in the most difficult of circumstances. However, I do fault the Congress when it accepts these judgments as growing from a complete and impartial analysis of the issues.

The military are not alone in having a confining perspective. Narrow judgments can be held by all men—including Members of the Congress. It is not unknown for narrow judgments to be central themes in attempts to secure personal political gains. Technologists support the advance of technology—often with scant regard for the political and military implications of their projects. Scientists in weapons laboratories justify to themselves any other programs which will keep them funded—and busy—such as mini-nukes and newer, more deadly MIRV's.

Acceptance of narrow judgments, in the case of strategic arms limitation questions, has led us to spend a great deal of time worrying about what the Russians could do under agreements we might make with them. We brood about the possibility of Soviet cheating and put together all sorts of dizzying calculations as to what the Soviet Union will do under this or that provision of some possible agreement.

In the midst of these Byzantine calculations, we lose sight of the larger, most critical strategic issue now facing us—what the Russians and the United States will do if there are not further comprehensive agreements limiting and reducing strategic programs.

Let us think for a minute about what will happen if we do not have effective controls. The United States will deploy more accurate and more powerful warheads on its missile forces. There will be a completely new submarine fleet. We may—in paroxysms of fear—reverse our considered strategic policies of the past and emulate the Soviet Union by developing advanced ICBM's capable of thrusting huge throw weights in a nuclear war, and we may rush into a huge new bomber program. The Russians, if our darkest fears are realized, may deploy a whole new generation of land-based missiles. They could follow the lead we are setting with our Trident program and develop a new generation of submarines. They could suddenly become interested in bombers and build a competing bomber fleet.

Both sides could be engaged in a ruinously expensive quest for a superiority which could not be achieved. There is no doubt that this quest would lead to a mutual arms spiral which would enhance and embellish the fears on both sides. The insecurities of the present time would be as nothing compared to the insecurities of the 1980's, if present trends continue.

If we are going to face arms control questions realistically and work to achieve strong agreements, we must divest ourselves of the mistaken idea that we are somehow inferior in strategic arms. It is simply not true.

When SALT I was concluded in 1972, the United States had 5,888 nuclear warheads in its strategic arsenal, as compared with 2,220 in the Soviet arsenal. Since that time, the United States has added more than 2,000 strategic warheads. The Soviet Union force has been increased by less than 400 warheads. This huge difference in favor of the

United States will continue at least through the term of the interim agreement on strategic arms. I have no reason to doubt that a substantial edge in nuclear warheads will be maintained well into the 1980's.

At some point, the Soviet Union may have a larger number of submarine-based missiles than the United States but they will have to retire land-based missiles in equal number to achieve a wide lead. Despite any Soviet advantage in total launchers, the United States has now—and will maintain for some years—a major lead in the numbers of warheads the submarines can deliver. All Soviet strategic missiles on submarines hold one warhead each. By contrast, some of our submarine missiles—the 496 missiles being deployed on Poseidon submarines—can carry 10 warheads each. The less sophisticated Polaris submarines carry A–3 missiles with three warheads each.

We have more than 400 strategic bombers. Most of these are B–52's with a typical force loading of four nuclear bombs and eight nuclear short-range attack missiles each. Our bomber force can carry nearly 4,000 separate nuclear warheads now. The Soviet bomber force of 140 planes—100 of which are powered by slower, turboprop engines—carries an estimated 250 warheads.

As if this were not enough, we have 15 aircraft carriers capable of delivering nuclear weapons on the Soviet Union, as well as hundreds of forward-based aircraft able to strike the Soviet Union.

The main Soviet advantage is in the numbers of land-based missile launchers and in overall throw weight. We must realize that the warheads the launchers carry—not the launchers themselves—constitute the threat.

Of course, the launchers and the throw weight could become a considerable threat in the 1980's if the arms race is unchecked. Similarly, the Russians will find the U.S. arsenal even more frightening in the 1980's if we continue without cease to build upon our advantages.

We do not—and will not—gain political or economic advantage through pressing strategic programs. And the Soviet Union will not gain political or economic advantage through strategic developments.

The only sane course for the two sides is restraint. For our mutual good, we must find ways as soon as we are able to control and to reduce our strategic arsenals.

I agree completely with the point made by the Secretary of State in his press conference in Moscow following the recent summit when he said:

If we have not reached an agreement well before 1977, then I believe you will see an explosion of technology and an explosion of numbers at the end of which we will be lucky if we have the present stability—in which it will be impossible to describe what strategic superiority means. And one of the questions which we have to ask ourselves as a country is what, in the name of God, is strategic superiority? What is the significance of it, politically, militarily, operationally, at these levels of numbers? What do you do with it?

If this prospect is not to become reality, we must move now to make a broad strategic agreement a reality. We must stop upping the ante by pursuing programs which tend to move us away from agreement, rather than toward it. There are those who are not really interested in bringing the arms race to a close. We have an obligation to be attentive to their proper concerns, but we must not fall into the trap of avoiding—out of narrow fears—the kind of agreements which can save us.

I do not wish to imply that I believe dealing with the Russians is an easy task. Obviously, they can take a hard line with us just as we can with them. However, our side must be able to approach the Soviet Union with soundly based, comprehensive proposals which represent the considered consensus of American leadership.

We cannot afford to continue with a situation in which we cannot achieve agreement with the Soviet Union because we cannot agree, even among ourselves, as to what we must seek.

CAPTIVE NATIONS WEEK—AND DÉTENTE

Mr. HRUSKA. Mr. President, the week of July 14th through the 20th marks the 15th anniversary of the celebration of Captive Nations Week. It is proper that we remember this important occasion for it reminds us that America still powerfully symbolizes the values and traditions of independence, freedom, justice and human rights.

The very progress that has been made in United States-Soviet relations does not diminish the need for us to remember those peoples of Eastern Europe who have been burdened by communism for so long. In fact, it enhances it.

Writing in the 1830's, a young Frenchman named Alexis de Tocqueville made the following observation:

The American struggles against the obstacles that nature places before him; the Russian is at grips with humanity. The one combats wilderness and savagery, the other combats civilization decked in all its armament: moreover, the conquests of the American are won by the plowshare, those of the Russian by the sword.

To attain his end, the first depends on the interest of the individual person, and allows the force and intelligence of individuals to act freely, without directing them. The second in some way concentrates all power of society in one man.

The one has liberty as the chief way of doing things; the other servitude.

Their points of departure are different, their paths are divergent; nevertheless, each seems summoned by secret design of providence to hold in his hand, some day, the destinies of half the world.

Those words, written over 140 years ago carry the essential differences between the United States and the Soviet Union. We do not sanction repression. We do not condone violation of human rights. We still carry the banner of freedom in the world. Yet, we cannot escape the fact that we, the United States and the Soviet Union, occupy space on one planet and to a very great degree hold the destiny of the world in our hands.

Any effort at cooperation and understanding, no matter how insignificant it may at first appear, is bound to have positive effect for those who share that planet with us. As we progress with this process, there is also a great need on our part to insure that the peoples of Eastern Europe are not forgotten.

Hopefully, when the Soviets feel secure, then perhaps they will no longer feel the necessity to rule the peoples of the Baltic States and Eastern Europe with an iron hand. When ideas can begin to flow between the United States and the Soviet Union, then perhaps they can begin to trickle throughout the Communist world. That is the great hope for détente.

ADOPTION OF SENATE-PASSED VERSION OF COMMUNITY DEVELOPMENT MEASURE URGED BY 19 SENATORS, 28 MAYORS

Mr. HUMPHREY. Mr. President, 19 Senators and 28 mayors have apprised the conferees meeting on the Housing and Community Development Act of 1974 that they will reconsider their support for this legislation, unless the final version of the measure more nearly conforms to the Senate passed bill.

In a letter to Senate and House conferees, initiated by Senators BIDEN, STEVENSON, and me, the 19 Senators said:

We believe the House bill is particularly deficient in the objectives it sets and in its formula for the allocation of community development funds.

Both the House and Senate bills recognize, as they should, the legitimate and growing needs of our suburban areas for community development assistance. But the House bill does so at the expense of both large and small cities that have worked hard and effectively over the years to reverse the decay and decline in their communities.

We believe that this is unwise and unfair to those who have worked hardest and longest to create a momentum to make their cities more liveable. Both needs must be served, not one at the expense of the other.

Mr. President, we urged the conferees to adopt two principles in their effort to work out an acceptable compromise between Senate and House passed bills:

First, adequate funding should be provided to permit all communities, regardless of size, to participate in the community development program.

Second, those cities that have participated effectively in community development programs in the past should have those efforts continued with the full support of the Federal Government.

These cities, we feel, should not be penalized by congressional adoption of an arbitrary formula, one that allocates funds without regard to need or demonstrated capacity.

Mr. President, we also strongly objected to the termination under the House-passed bill, of the existing public housing, homeownership, and rental assistance programs and urged that they be adequately funded for at least 2 more years.

The cosigners of this letter believe that the Senate bill has the strong support of the vast majority of the American people and that the threat of a veto by the administration should not prevent Congress from doing what is necessary.

Our letter concluded by informing the conferees that:

As supporters of the Housing and Community Development Act of 1974, when it was passed by the Senate last March, we must appraise you of our intention to seriously reconsider our support for this legislation, unless the provisions and principles (outlined in the letter) are included in the version of this bill reported by the conference.

Those signing the letter to the conferees, in addition to Senators HUMPHREY, BIDEN, and STEVENSON, were Senators HUGH SCOTT, JOHN V. TUNNEY, DICK CLARK, RICHARD S. SCHWEIKER, THOMAS F. EAGLETON, JENNINGS RANDOLPH, FLOYD K. HASKELL, JAMES ABOUREZK, WALTER F. MONDALE, PHILIP A. HART, CHARLES H. PERCY, J. BENNETT JOHNSTON, DANIEL K. INOUYE, EDWARD M. KENNEDY, JACOB K. JAVITS, and THOMAS MCINTYRE.

Mr. President, Congressman DONALD M. FRASER and I submitted petitions yesterday to the House and Senate conferees on behalf of 28 mayors, outlining their specific objections to the House-passed version on the Housing and Community Development Act.

Providing leadership on the petition effort are Minneapolis and St. Paul, Minn., mayors, Albert J. Hofstede and Lawrence Cohen. Their support includes Mayors Joseph Alioto, San Francisco, Calif., president of the National Conference of Mayors; Coleman A. Young, Detroit, Mich.; Kenneth A. Gibson, Newark, N.J.; Richard F. Walsh, Kansas City, Kans.; Richard J. Hatcher, Gary, Ind.; Henry Maier, Milwaukee, Wis.; and Gary A. Greenough, Mobile, Ala., among others.

Mr. President, I ask unanimous consent that the letter to the conferees from 19 Senators, and the petition from the 28 mayors, which was transmitted to the conferees, be printed in the RECORD.

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

U.S. SENATE,
Washington, D.C., July 17, 1974.

Hon. JOHN SPARKMAN,
Chairman, Committee on Banking, Housing and Urban Affairs, Dirksen Senate Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: We wish to bring to your attention our deep concern regarding H.R. 15361, the House passed version of S. 3066, the Housing and Community Development Act of 1974.

With regard to its Community Development provisions, we believe the House bill is particularly deficient in the objectives it sets and in its formula for the allocation of Community Development funds.

The Senate bill establishes Community Development block grants to be spent in accordance with specified national priorities. This is to insure that the Federal taxpayers' dollars are spent where the need is greatest. By failing to establish clearly defined priorities, the House bill would permit dissipation of scarce Community Development resources. It is essential that the Senate concept be retained.

Both the House and Senate bills recognize, as they should, the legitimate and growing needs of our suburban areas for community development assistance. But, the House bill does so at the expense of both larger and smaller cities that have worked hard and effectively over the years to reverse the decay and decline in their communities. We believe that this is unwise and unfair to those who have worked hardest and longest to create a momentum to make their cities more liveable. Both needs must be served, not one at the expense of the other.

We urge the conferees to adopt two principles in their effort to work out an acceptable compromise in conference.

First, adequate funding should be provided to permit all communities, regardless of size, to participate in the community development program.

Second, those cities that have participated effectively in Community Development programs in the past should have those efforts continued with the full support of the Federal government. These cities should not be penalized by Congressional adoption of an arbitrary distribution formula, one that allocates funds without regard to need or demonstrated capacity.

With regard to the Housing provisions of the House passed bill, we strongly object to the termination of the existing public housing program and the home ownership and rental assistance programs (Section 235 and 236). We seriously doubt that the Section 23 program, by itself, will adequately meet the urgent housing needs of low and moderate income people.

While this new approach warrants testing, we strongly urge the conferees to authorize the continuation of the existing programs for at least two more years.

We believe that these programs should be adequately funded during that period.

And, the improvements to these programs contained in the revised National Housing Act should be adopted.

These three steps are essential to any new housing legislation. We urge the Senate conferees to hold firm to these minimum requirements.

To maintain momentum in community development in our hard pressed urban areas, and to help meet the housing needs of low and moderate income Americans, we urge you to retain these provisions of the Senate passed bill.

We believe that the Senate bill has the strong support of the vast majority of our people and that the threat of a veto by the Administration should not prevent Congress from doing what is necessary.

As supporters of the Housing and Community Development Act of 1974, when it was passed by the Senate last March, we must apprise you of our intention to seriously reconsider our support for this legislation, unless the provisions and principles mentioned above are included in the version of this bill reported by the Conference.

Sincerely,

HUBERT H. HUMPHREY, ADLAI E. STEVENSON III, JENNINGS RANDOLPH, RICHARD S. SCHWEIKER, JAMES ABOUREZK, HUGH SCOTT, EDWARD M. KENNEDY.

JOSEPH R. BIDEN, JR., THOMAS F. EAGLETON, CHARLES H. PERCY, JOHN V. TUNNEY, JACOB K. JAVITS, WALTER F. MONDALE, DICK CLARK.

FLOYD F. HASKELL, PHILIP A. HART, DANIEL K. INOUYE, J. BENNETT JOHNSTON, THOMAS J. MCINTYRE.

U.S. SENATE,
Washington, D.C., July 17, 1974.

Hon. JOHN SPARKMAN,
Chairman, Committee on Banking, Housing, and Urban Affairs, Dirksen Senate Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: Mayors Al Hofstede and Lawrence Cohen, of Minneapolis and St. Paul, Minnesota, have asked that I transmit to you the enclosed petition signed by twenty-eight mayors urging that certain provisions be included in the Housing and Community Development Act (S. 3066) now in Conference.

I hope that the Senate conferees will give full consideration to the concerns raised by these mayors.

Best wishes.

Sincerely,

HUBERT H. HUMPHREY.

To the members of the Conference Committee on Community Development Legislation and to the members of the Senate and House Appropriations Committees:

We, the undersigned mayors, are concerned about pending community development legislation, and in particular, a number of provisions in the House Bill (HR15361). While many of the differences between the Senate and House versions are negotiable in conference committee, there are some issues regarding both funding and substantive legislation which have serious consequences for many of our nation's cities and which, if not resolved, will seriously jeopardize our support of community development legislation.

It is essential that an effective and responsive community development law be enacted by the Congress of the United States. Virtually everyone in the housing and community development fields will acknowledge that these programs need to be improved.

WHAT MAKES A GOOD BILL?

There are a number of basic criteria that community development legislation should meet. These are the criteria that any mayor or public official with any basic knowledge of the development process would identify as the minimum ingredients to make community development work. These are:

1. There should be adequate funding for all communities, irrespective of size, with funding levels based on a reasonable assessment of need. Above all, prior levels of funding should not be arbitrarily reduced.

2. The transition from categorical to special revenue sharing programs should be orderly and transition funding should be adequate and not deducted from block grant settlements.

3. The flow of incremental Federal grants for community development should be guaranteed so that multi-year development efforts may proceed without being delayed by waiting for federal money.

4. Housing for low and moderate income families should be provided as a fundamental and inherent part of the community development process in amounts sufficient to meet overall community needs.

5. Federal pre-application requirements should be held to a minimum; however, removal of slums and blight and ability to produce housing for low and moderate income families should be maintained as national priorities.

We urge you to prepare a conference bill which recognizes these criteria. Specifically, appropriations and community development legislation must embrace, at a minimum, the following:

1. Transition funding for cities with ongoing programs must be maintained at those levels established during FY–1970 to FY–1973. Additionally, such funding should be appropriated to cover the duration form July 1, 1974, until such time as a replacement program is fully implemented.

2. Funding under the community development act must be reasonably related to need. Accordingly, cities with both demonstrated need and with established experience levels should not have their entitlement arbitrarily reduced by a mechanistic formula. Experienced cities with populations under 50,000 should not be penalized by elimination of direct entitlement, under the formula.

3. Community development programs cannot succeed without concurrent housing assistence programs for low and moderate income families. Existing programs which have worked should not be eliminated in favor of a new and untested replacement, (Section 23), and therefore, such existing programs should be funded and extended until the new program has been operational for at least a year and has proven itself as a viable alternative.

Since the passage of the Housing Act of 1949, significant progress has been made in meeting our community development needs.

Let us not throw out this legacy by adopting deficient legislation.

MAYORS SIGNING COMMUNITY DEVELOPMENT ACT LETTER

ORIGINAL

1. Albert J. Hofstede, Minneapolis, Minn.
2. Wallace E. Holland, Pontiac. Mich.
3. Donald E. Johnson, Muskegon, Mich.
4. Paul R. Soglin, Madison, Wis.
5. Richard J. Hatcher, Gary, Ind.
6. Joseph L. Alioto, San Francisco, Calif.
7. Bartholomew F. Guida, New Haven, Conn.
8. Paul C. Visser, Flint, Mich.
9. Richard F. Walsh, Kansas City, Kans.
10. Norman Y. Mineta, San Jose, Calif.
11. Coleman A. Young, Detroit, Mich.
12. Robert W. McGraw, Rockford, Ill.
13. Kenneth A. Gibson, Newark, N.J.
14. Doris A. Davis, Compton, Calif.
15. Lyman S. Parks, Grand Rapids, Mich.

SUBSEQUENT

16. Richard E. Olson, Des Moins, Iowa.
17. Jerry J. Miller, South Bend, Ind.
18. Lawrence Cohen, St. Paul, Minn.
19. Ted C. Wills, Fresno, Calif.
20. Henry W. Maier, Milwaukee, Wis.
21. Edward Zorinsky, Omaha, Nebr.
22. Ivan A. Lebamoff, Fort Wayne, Ind.
23. George A. Athanson, Hartford, Conn.
24. Jerry M. Patterson, Santa Ana, Calif.
25. Gary A. Greenough, Mobile, Ala.
26. James H. McGee, Dayton, Ohio.
27. Thomas P. Ryan, Jr., Rochester, N.Y.
28. Gordon Johnston, Tacoma, Wash.

THE CONSUMER PROTECTION AGENCY ACT

Mr. JAVITS. Mr. President, I ask unanimous consent to have printed in the RECORD a group of editorials favoring the Consumer Protection Agency.

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

[From Business Week, Apr. 6, 1974]

A CONSUMER SPOKESMAN

Businessmen understandably are somewhat nervous about the drive to create a federal agency charged with looking out for the interests of the U.S. consumer. But the legislation taking shape this week in the House deserves the support of business as well as the various groups that now speak for the consumer.

Basically, the bill would create an "ombudsman" to represent consumer interests before Congress and most federal regulatory agencies, including the Federal Trade Commission, the Food & Drug Administration, the Interstate Commerce Commission, and the new Product Safety Commission. Consumer interest as defined in the bill would include everything from quality to availabiilty and adequacy of choice.

There is a danger, of course, that another agency would simply multiply the red tape and increase the delays that already frustrate businessmen when they deal with the government. But it is also possible that the new agency could help speed the regulatory process by improving input and clarifying issues.

Beyond that, a consumer agency could improve the level of debate between business and the consumerists. By putting a sharp focus on the vague charges the consumer groups now feel free to make, it could show business where its real problems are. And by equalizing the balance between well-financed, well-organized business groups and the often disorganized consumer spokesmen, it could help restore public confidence in the regulatory process.

The chances of getting a fair and workable bill adopted may be better now than they will be after election. There is no telling what part consumer unrest will play in next November's voting. But as Representative Frank Horton (R-N.Y.), a co-sponsor of the bill, says, "Prudence dictates moving when the situation is stable and the factors understood."

[From the Washington Star-News, July 3, 1974]

CONSUMER BILL FACES FILIBUSTER

(By Sylvia Porter)

The 1974 Consumer Protection Agency Act—potentially the most important consumer protective legislation in a half-century—is heading for a bitter fight and probably a filibuster when it reaches the Senate floor after Congress' July 4 recess.

The data-gathering role of the CPA is a "dangerous" tool which "might be used to persuade other agencies to agree with the consumer advocate viewpoint," says the powerful U.S. Chamber of Commerce.

The agency could be "a distruptive force empowered to wander to and fro through the halls of government and . . . to engage administration agencies in guerrilla warfare," adds Sen. James B. Allen, D-Ala., who led the filibuster that defeated the bill in 1972 and who, with Government Operations Committee chairman Sam J. Ervin, D-N.C., is likely to lead the filibusters in 1974.

It's a "bad idea whose time has come and gone" and a too powerful "Caesar within the federal bureaucracy," declare other opponents getting set up kill the legislation again.

What's this bill all about? Briefly, the CPA would:

Serve as the consumer's watchdog both within and outside the federal regulatory agencies; represent you at formal and informal proceedings held by other federal agencies; refer complaints to appropriate sources;

Appeal anti-consumer decisions and rulings in the courts and subpoena information from federal agencies if the CPA deemed it relevant to your health or safety;

Distribute important information on consumer products and services and encourage both public and private product testing.

It would, in sum, be the consumer's first independent nonregulatory agency at the top levels of government.

In the words of Sen. Charles H. Percy, R-Ill., it would "temper the arrogance, cynicism and callousness of those who would deceive, cheat, injure or even kill buyers and users of goods and services."

It would, in the words of Rep. Ben Rosenthal, D-N.Y., "give consumers equal clout with business when federal decisions are made affecting the health and economic well-being of the public." It would, in the words of Sen. Frank Moss, D-Utah, halt the "inclination by the regulators to simply do what industry asks."

Would it develop into a huge and costly new federal bureaucracy? Not with a budget of $15 million and a small staff of lawyers (although, of course, it could grow).

Would it hurt business and hamper the work of the federal regulatory agencies by permitting the consumer's agency to participate in and challenge decisions made by the regulators?

Presumably, only fraudulent businesses would be threatened; the CPA would not have the power to issue regulations.

Since the law does not require that agencies notify the public that certain investigations or informal procedings are taking place, many issues are decided before consumers even know they are being considered. Where the agency decides not to act, consumers may never know an investigation even took place.

Consumers have no organized lobby before Congress.

If anything, you are appallingly undersupplied with time, money and organization to represent your interests before the federal agencies which make critically important decisions for you.

[From the Fort Wayne (Ind.) Journal Gazette, May 27, 1974]

A CONSUMER REPRESENTATIVE

The consumer at last may have a voice in the government policy-making process if a bill that would create a Consumer Protection Agency clears its final hurdles. The bill, which already has passed the House, recently was reported favorably by the Senate Government Operations Committee, and should reach the Senate floor by the end of the month.

Special-interest pressure against the bill has been understandably intense. A National Association of Manufacturers lobbyist calls it the "worst bill I've seen in 33 years in Washington," and other business community spokesmen warn ominously of institutionalizing "Naderism" within the federal bureaucracy. Ironically, these comments comprise the bill's strongest endorsement. Ralph Nader, a long-time consumer-protection advocate, presumably has the public interest more at heart than business and lobbyists.

The new Consumer Protection Agency would have a relatively simple task in shielding consumer interests against the onslaught of big-business pressures. It essentially would act as a consumer advocate before other federal agencies. Presently there is no spokesman for the consumer in proceedings that often directly affect him. Hearings normally feature the federal agency on one side and the representatives of special interests on the other. Because the pending legislation would give the consumer a role in determining the outcome of events tied to his interests, the bill's opponents argue the agency would have direct regulatory powers over industry—an argument that isn't substantiated by the facts.

The already-passed House bill, for example, very clearly empowers the consumer agency only to appear at formal and informal proceedings of other agencies, to appeal decisions of other agencies to the federal courts under restricted circumstances, to request other agencies to subpoena information of interest to consumers from business, to obtain such information directly from businesses and publicize hazards, and to serve as a clearinghouse of consumer complaints and request enforcement actions by other agencies.

The regulated industries, however, traditionally have enjoyed close relationships with the regulatory agencies, such as the Food and Drug Administration, the Interstate Commerce Commission, and the Federal Aviation Administration. Any proposal that endangers this friendly arrangement by permitting another agency to intervene on the consumer's behalf is considered a threat. Appeals to the courts and forced disclosure of information also are unsettling to many corporations.

The lobbyists' contention that all business or all industry is opposed to the new agency is undercut by some major defections. Montgomery Ward and its parent firm, Marcos, totally support the consumer proposal, and several other companies, including Motorola and Zenith, also endorse it. "If you're ever going to support any piece of consumer legislation," a Wards vice persident advised a recent business conference, "support this one."

The same advice could apply to the senators who soon will be taking up the bill. A filibuster already is threatened, and big business is gearing its lobbyist forces for one of the biggest propaganda barrages Congress has seen. Who really speaks for the consumer-voter should be evident after that legislative battle.

[From the Providence (R.I.) Bulletin Apr. 15, 1974]

HOPE FOR CPA

For more than 10 years consumer advocates have sought to establish an independ-

ent Consumer Protection Agency (CPA) funded by Congress. Last Wednesday, the House of Representatives voted 293 to 94 to move ahead with caution and meanwhile the Senate is considering similar legislation.

This may be the year in which Congress ends its vacillation on this issue but it is still too early to forecast. In 1970, the Senate passed a similar measure overwhelmingly only to see the House counterpart killed in the rules committee. In 1971, positions reversed. The House gave strong support to CPA but in 1972 three attempts to end a Senate filibuster failed.

Opponents argue on two main fronts: one, that at least 33 federal agencies are now engaged in activities related to consumer interests and this constitutes adequate protection in the marketplace; and two, that further allocation of governmental power to consumers could lead to unwarranted harassment of business and industry and to a resulting backlash with unfavorable consequences for the consumer himself.

Why, then, is there a need for CPA? Is it another political boondoggle to win votes back home, another concession to the empire-building of bureaucracy? Neither possibility can be dismissed out of hand. The political implications of consumerism are awesome for the senator or representative forced to take a stand. And there is a little question that CPA would require a staff of several hundred initially and that the agency's workload could be expected to grow.

But CPA can be justified on other grounds. Despite the wide diversity of consumer activity in government, including the Federal Trade Commission, Food and Drug Administration, Securities and Exchange Commission, Office of Consumer Affairs, the President's Committee on Consumer Interests, and numerous other departmental offices and divisions, not one has the scope of political independence to function as a national consumer spokesman and to coordinate the aims and activities of other government agencies.

The House-passed bill would grant no regulatory powers to CPA. To obtain information from other agencies it would have to prove relevance to consumer affairs. Its right to seek judicial review would be limited, and initially funding would be for three years, enabling Congress to re-evaluate the agency at the end of that time.

CPA would be authorized to receive and evaluate complaints, gather and disseminate consumer product information and promote research.

Several years ago, Atty. Gen. Louis J. Lefkowitz of New York State, voiced the view held by many Americans and since supported by glaring examples of corruption in government. "Existing fragmented and piecemeal enforcement and regulation by scores of federal bureaus and agencies," he said, "plays into the hands of special interest groups with vested interests who are more concerned with the status quo than with new programs designed with the consumer in mind. It is absolutely imperative that the federal government take appropriate action now to regulate and police the economy of our affluent society for the benefit and protection of the consumer."

CPA, in our view, should be regarded as an experiment, not a panacea, aimed at balancing commercial and consumer interests with greater precision and fairness. The milk price scandal, the wheat deal with Russia, the current indictments charging high government officials with exercising improper influence over regulatory agencies—these are some of the reasons why many believe that CPA is needed to advocate and press for the rights of consumers. It ought to be given a chance.

[From the Frankfort, Ky., Journal, April 19, 1974]

CONSUMER PROTECTION

Better a compromise Consumer Protection Agency (CPA) than none at all—and CPA legislation, which finally seems ready to flower, comes just at a time when American consumer confidence needs a boost.

The consumer confidence index has dropped 40 points since last fall, according to a business fact-finding organization, the Conference Board. The Albert Sindlinger telephone poll reports the severest decline in confidence in 25 years. Meanwhile, Mrs. Eunice Howe has resigned her nearly four-year chairmanship of the President's consumer advisory council in dissatisfaction with White House consumer efforts.

"I believe the time has come to set in motion transition from advice to action on national consumer policy . . . ," she says. "It is my fervent hope that in resigning I might add some small, small stimulus to an overwhelming vote by both houses for the passage of a consumer protection agency bill."

Such bills have been offered for several years, always thwarted with the help of opposition by industry. But the more enlightened businessmen are beginning to recognize a mutuality of interest with consumers. And the compromise CPA legislation now emerging omits some of the sterner measures favored by consumerists, such as the right to intervene in lower governmental decisions. "I firmly believe that legitimate business has nothing to fear from this legislation," says Rep. Frank Horton, leading Republican on the House Government Operations Committee which recently gave overwhelming approval to a CPA bill, later passed by the House.

Restrictive amendments were included, but the House defeated a weaker bill favored by Mr. Nixon. If the expected Senate approval comes through, the final legislation could go to the President by summer.

A vigorous consumer protection agency could help to restore consumer confidence by assuring the public of representation when federal industry regulatory agencies make decisions on such matters as safety and standards.

[From the Los Angeles, (Calif.) Times, Apr. 14, 1974]

THE CONSUMER DESERVES TO BE HEARD

The Senate should do this year what it did in 1970, and pass legislation to establish a consumer-protection agency. The House has already acted, approving a strong and carefully drawn bill providing that the interests of consumers will be represented in proceedings of other federal regulatory agencies.

The need for such representation is clear. Everything done by regulatory agencies directly or indirectly affects consumers. The consumer viewpoint deserves to be heard.

Under the House bill, the consumer agency would simply have the rights currently available to other parties in federal administrative procedures. The agency would serve as advocate, not regulator. Private consumer groups are free to appear now in many proceedings, but the new agency would have the expertise, resources and access to information that these groups frequently lack.

For example, the consumer agency could request that products whose safety or efficacy had been seriously questioned be tested by appropriate government agencies, and the results made public. It could testify and seek information when hearings are held on such things as sanitation standards in food-processing plants, or on petitions to increase airline fares. It could ask another government agency to initiate a proceeding, and if that request were denied, the reasons would have to be made public.

Among other things, the agency would serve as a central registry for consumer complaints and industry responses, and its files would be open to the public. The agency would have access to all information within other federal agencies but, quite properly, special restrictions would be placed on access to trade secrets or information received on a confidential basis.

Both the powers given to and the limitations imposed on the consumer agency in the House bill make sense. It is hard to think of any good reason why there should not be competent and vigorous advocacy on behalf of consumers—and that is all of us—in the proceedings of regulatory agencies, which annually make hundreds of decisions touching on how much the public will pay for things or how well public health and well-being will be safeguarded.

The consumer interest is seldom completely ignored in these proceedings, but neither is it always forcefully represented. A consumer protection agency would serve that necessary function.

[From the Roanoke (Va.) World-News, Apr. 30, 1974]

PROTECTING THE CONSUMER

According to the Conference Board, a business fact-finding organization, the consumer confidence index has dropped 40 points since fall. There are many reasons for this, of course. But one of them is the consumer's ongoing suspicion that government regulatory agencies are stacked to his detriment and to the advantage of business and industry.

Legislation now before the Congress should go far toward allaying that fear. It would create a Consumer Protection Agency that would serve as the consumer's voice before those government agencies that deal with consumer matters.

The new agency would have no regulatory powers of its own. It would perform the services of an advocate—seeking court action on the actions of other agencies that appear to be anti-consumer, soliciting action by other agencies on behalf of the cosumer, and so forth.

The House bill creating the Consumer Protection Agency has survived numerous assaults in committee and on the floor itself. Though not as strong as it began, the legislation is viable. Its survival is, we think, a testimony to the strength of the desire of the American consumer for a certain voice in Washington. The Senate should keep this in mind as it considers similar legislation this month.

Certain elements of the business community have a history of opposition to such legislation. More enlightened businessmen, however, realize they have nothing to fear from a Consumer Protection Agency so long as they are not trying to cheat or otherwise abuse the consumer.

Their colleagues ought to come around. To oppose creation of an agency that would do nothing more than give the consumer a reasonable voice, is to give the appearance that you have something to fear from such an agency.

[From the St. Louis (Mo.) Post-Dispatch, Apr. 13, 1974]

A BILL FOR CONSUMERS

Once again, a bill to establish a federal Consumer Protection Agency has advanced in Congress, and once again the same tired arguments, which in the past have proved successful, are being raised in opposition to it. Since legislation to create such an agency first passed the Senate in 1970 (only to be killed that year by the House Rules Committee), the fundamental question has been whether the office should have sufficient authority to adequately represent the inter-

est of consumers or whether it should exist in little more than name only.

Under a bill approved by the House, the agency would have an array of considerable powers. While it would lack regulatory authority of its own, the CPA would take part in formal rate-making proceedings of such agencies as the Interstate Commerce Commission and it would participate informally on policy-setting deliberations of the Federal Food and Drug Administration and other such offices. Most importantly, it would be authorized to intervene on behalf of consumers in court cases, although to do so it would need the judge's approval.

As usual, the agency is being opposed by business groups led by the U.S. Chamber of Commerce. Principally the objections center on the court powers that would be given the CPA, a grant of authority that its critics say would be abused by endless appeals of regulatory rulings. Yet the House bill is carefully drawn to prevent irresponsible litigation. As things now stand, consumers, unlike big business, have no special advocate among the federal agencies. It is far past time to remedy this unequal situation and the way to do this is through passage of the CPA bill.

[From the Des Moines (Iowa) Tribune, June 1, 1974]

CONSUMER AGENCY BILL

The bill setting up a Consumer Protection Agency has cleared the Senate Government Operations Committee after passing the House on a 293–to–94 vote early in April.

The House-passed bill would give the consumer agency authority to obtain consumer information from businesses, to publicize hazards and questionable practices, to request enforcement action from other government agencies and to appeal decisions of other agencies to federal courts.

Trade associations, notably the National Association of Manufacturers and the National Association of Food Chains, are leading lobbying efforts against the bill. Their main objections center on the agency's license to intervene in consumer matters before such other agencies as the Food and Drug Administration, Interstate Commerce Commission and Federal Aviation Administration, with which regulated industries usually have cultivated good relations.

But the trade associations appear to be having difficulty maintaining a united front. Several companies—Montgomery Ward, Motorola and Zenith among them—have declared support for the bill.

While not as strong as they originally had hoped for, the bill is satisfactory to most consumer groups. It is a reasonable compromise that would give consumers a much-needed sounding board in the federal government. It merits a fair trial.

[From the Atlanta (Ga.) Journal, May 28, 1974]

NECESSARY VOICE

There has been a long history of efforts to establish a consumer office in Washington, effectively opposed for a variety of reasons.

But it is an idea whose time may be about to arrive after years of adjustments and debates.

The Consumer Protection Agency Act has been passed out of the House, come out of two committees in the U.S. Senate and is expected to be on the Senate floor for consideration around June 10.

There is some speculation that the bill will face a filibuster in the Senate once it is brought up. The time and effort put into struggling for evolution of a consumer agency since Sen. Estes Kefauver introduced a bill in 1961, deserve a better fate than that.

The legislation before the Senate would establish a Consumer Protection Agency as an independent, nonregulatory body, representing the interests of consumers before other federal agencies and courts.

The bill has drawn strong support from consumer groups who feel it necessary because consumer interests have lacked the continuing effective representation that other interests have produced in arguing their cases.

An independent advocate agency of the kind proposed would be a far better approach than the creation of Cabinet-level Department of Consumer Affairs proposed at one time in 1969 by Sen. Gaylord Nelson. Nelson's department would have been cast in both an advocate and regulatory role.

The combination of the two would have led to numerous attacks on the department's credibility and heavy-handed bureaucracy.

The Senate Committee on Commerce in its report on the pending Consumer Protection Agency Act emphasized that the pending legislation specifically avoids combining the two roles. "It has no authority to alter any other agency's regulatory authority. It has no authority to initiate a judicial proceeding for the enforcement of any other agency's authority. The CPA is primarily an advocate."

That is as it should be. Regulatory agencies themselves can supply only a modicum of consumer advocacy. In some cases, in fact, they have appeared genuinely unaware that important consumer interests are affected by their decisions.

There is a strong desire for better representativeness and checks and balances in Washington. The creation of a consumer advocate agency will at least assure citizens that important consumer issues will be given full attention and consideration when regulatory agencies weigh the balance of interests in their decision making.

[From the Denver (Colo.) Rocky Mountain News, Apr. 16, 1974]

HELP IS ON THE WAY

For a long time now, many concerned citizens have felt that much is left to be desired in the cozy and often secret relationships between federal regulatory agencies and the industries they are charged with regulating.

Often, too, their suspicions have been well-founded.

Now, after years of delay, Congress seems about to establish a Consumer Protection Agency. Legislative work is expected to be completed before summer, and President Nixon has already given his commitment in favor of such an agency.

Although some of the original proposals for the agency's powers have been watered down in order to muster enough support from Congress, it still would have wide-reaching prerogatives to act as a sort of consumer ombudsman, a gadfly roaming through the government with enough sting to intervene in any federal agency activity that might affect the nation's consumers.

Many industry lobbyists feel that the agency would be just one more nuisance, an impediment to doing business. Others, however, agree that it could weed out dishonest business practices and thereby help restore consumer confidence in the goods that industry produces.

Certainly some such free-wheeling outfit, with no commitments except to the interests of consumers, is long overdue. After all this time, we hope it lives up to its advance billing.

[From the New York Times, July 16, 1974]

CONSUMERS' VOICE

For the third time in four years the Congress is attempting to create an institutional voice for consumer interests in Washington, to balance the well-organized activities of business lobbies and trade associations. Only the prospect of a filibuster, perhaps starting today, seems to stand between this much-needed legislation and Senate passage, following last April's overwhelming approval by the House of Representatives.

The bill would create a Consumer Protection Agency, a relatively small bureau whose function would be to present the consumer viewpoint in hearings and other proceedings before Federal regulatory agencies. It would have no regulatory power of its own.

In any administrative procedure, the presentation of advisory voices is the best guarantee against domination by one or another vested interest. "Consumers" are no monolithic or exclusive bloc of society, any more than is "business." Yet for too long an imbalance has existed in Washington that allowed the business-financed trade organizations to present their viewpoints on any issue pending in regulatory proceedings, without an equally coherent and informed presentation of how decisions might affect consumers. The Consumer Protection Agency is aimed at correcting this imbalance, not at imposing a veto power or superagency control.

In 1972 similar legislation passed the House, but was filibustered to death in the Senate. The leader of that filibuster, Senator James B. Allen of Alabama, has signaled his intention of trying to repeat his previously successful obstructionism. But this issue cannot be allowed to fail once again on a procedural ploy; the Senate owes the electorate a straightforward vote on its merits.

FOOD FOR THE NEEDY

Mr. HUMPHREY. Mr. President, I would like to call attention to an article, "Food for the Unfed," by Coleman McCarthy, which appeared in the Washington Post on July 17.

Mr. McCarthy tells us correctly that the plight of the poor is not a new problem. Unfortunately, it no longer creates a sense of alarm in us when we are told that we should attune our attention and understanding toward feeding the underfed. Americans are constantly being subjected to one "crisis" or another. But as he so aptly states, the "sleeping overfed" must be awakened to the gravity of this moral dilemma which is becoming more acute every day.

I have submitted a resolution in the Senate to sound the alarm on the situation that former Senator Tydings personally witnessed in Calcutta. It is easy to contrast the starving of India with our own food problem of how to avoid eating too much. But it is another matter for our Government to help initiate the decisive action required to address the urgent problems of hunger and starvation in the world.

Unfortunately, this administration cannot seem to make up its mind on its response to the food crisis. The media, the public, and citizens such as Mr. Tydings have been calling for positive action. Mother Teresa eloquently outlined the need before the recent Senate Foreign Relations Committee hearings on the world food resolution, Senate Resolution No. 329.

We now have the opportunity to provide the necessary leadership and make a moral commitment to aid the helpless

poor. I only hope that this chance will not be passed up in favor of easy rhetoric.

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 FOR THE UNFED

(By Colman McCarthy)

The sight of starving children struggling with ravens and emaciated dogs for scraps of food on rotten piles of garbage or the late evening garbage trucks picking up corpses from the sidewalks in the daily clean-up, leaves you with a sickness of soul and mind and spirit for weeks and weeks thereafter.

The sickened citizen was Joseph Tydings. He is a former Maryland politician, now with the Population Crisis Committee, who recently visited the Halora, the infamous slum in Calcutta. He returned to Washington and went before the Senate Select Committee on Nutrition and Human Needs, one of the few government groups willing even to recognize that the world's food supply is ominously low and uncounted human beings are starving. "On the street of Calcutta," Tydings said, "we were exposed to scenes which defy description and belief in which human life has sunk on some spots of this planet." Tydings did not come to testify on Calcutta, because that is an old story, however, haunting in each retelling. Instead, his voice was one more speaking out in what is currently called the world food crisis.

Even before trying to understand the proportions of the global food shortage, the word "crisis" creates problems. It is now used so commonly—as in the energy crisis, the financial crisis, the Watergate crisis—that Americans see it as merely another manufactured tactic, a fake scare word. So the alarm of the hunger crisis already has a tinny ring to it. Here we go again, we say, just having gone and returned from yesterday's crisis, well and safe as usual.

On a deeper level than this verbal one, Americans are protected in another way from the reality of famine and hunger. We are a nation of overfed people, and *our* food problem is how to avoid eating too much. Quackish schemes have no trouble attracting dupes who want to lose weight by other means than proper diet and self-denial. It is now common for newspapers and magazines to carry the ultimate indictment of glutted Americans: ads for weight salons or reducing schemes next to news accounts of starvation in Africa, Latin America or elsewhere. The pictures of big-bellied children nursing on emptied breasts tell of the other "weight problem."

So feeding the unfed will not be done until the sleeping overfed are awakened. Those who have been among the starving and dying know that just to get across the message of this disaster is an accomplishment, not to mention solving it. Norman Borlaug, the agronomist of the green revolution, came to the hearings to offer a thought on how to jar the plicymakers. "We might have better agriculture and food production policies if all those government officials who were involved would . . . quit eating for 14 days before they were going to make their decision on policies on pricing for food and priorities for investments in agriculture, and then also during the last three days go without water. Maybe they would not only learn something to their distress about the value of food from a biologic standpoint, but also something to their distress about the behavior of human beings under shortage of food and famine."

Borlaug's statement tells much about the indifference of the fed toward the unfed but, even more, it implies that the situation is nearly hopeless: the pain of an empty stomach, not moral values that insist each human life is sacred, has the power of prompting officials of rich nations to share the wealth.

But what if on the personal level—far from the policymakers and the safe collective conscience—an individual wants to act against world hunger? It is, after all, people who either have or don't have food. What can the fed citizen do? On the immediate practical level, he can begin eating less meat, or, eat none at all. Specialists like Margaret Mead and Frances Moore Lappe have been saying that feeding American cattle places such a demand on the world's grain supplies that the price of grain is pushed far beyond the reach of the poor and hungry. Or as Commonweal magazine asks in its current issue: "With the world desperately short of grain, how long can we Americans justify a per capita consumption of 2,000 pounds of grain a year, most of it inefficiently used to fatten meat-producing animals, when one-fifth of that amount would constitute an adequate diet in most parts of the world?" For many Americans, life without steaks and hamburgers suggests a stark asceticism, a perpetual Lent. But this may be because the victims of famine are out of sight; they are dying across an ocean, not across the street. It is also because we see the meat by itself in the supermarket and do not see the immense amounts of grain needed to produce it, grain that could be directly feeding people.

The call to give us meat—most of it is tasteless and tough anyway, not to mention the health risk—involves no nutritional sacrifice, because protein sources are easily available elsewhere. More crucial, it is a symbolic gesture, one that the policymakers cannot fail to notice. By itself, living on a diet of vegetables, fruit and grains is not enough, but it is a positive beginning. A recent survey of the Overseas Development Council revealed a 68 per cent favorable answer on whether the world's rich countries should help the poor ones. Yet, even with this expression of the people, the Nixon administration cannot bring itself to decide whether to expand American food aid to deal with worldwide hunger. "We are seeking to find ways to do it," Edwin M. Martin of the State Department recently told a Senate Foreign Relations subcommittee. "But I can't give you assurance that we will do so."

The same time that wealthy America was denying its responsibility to share its food, Mother Teresa, the Catholic sister who cares for Calcutta's dying, came to Washington to say: "The poor are the hope of mankind, the salvation of mankind. We will be judged on what we have done for the poor."

History has never seen a country collectively decide to sacrifice its standard of living for the goal of relieving the suffering of another country. If anything, as in war, it is always the opposite—citizens will sacrifice for the purpose of increasing the misery of the other tribe. So, in this sense, there is a war on, with people dying of hunger as painfully as though bombs or napalm fell on them. And this war appears to have few protestors in America, only a congressional committee or two, and a few people who see a moral link between their own plentiful food supply and the non-supply of the hungry.

THE BRITISH MIRACLE

Mr. PELL. Mr. President, 10 years ago when we were devising legislation to create for the first time in our Nation a National Endowment for the Arts, I gave special attention to the examples set in this very important area by foreign governments. Especially, did we consider the Arts Council of Great Britain. Its work stemmed from efforts made during the darkest days of World War II, and from a nation's recognition that the arts have an abiding significance to civilization which temporary severe hardships and tragedy cannot alter. Indeed, there was a clear recognition of the inspirational value of the arts in a time of desperate trouble.

Today our own Federal program to support the arts has increased in scope and importance. A year ago in this Chamber I had the opportunity of managing through to successful conclusion, legislation to reauthorize this program at increased levels of funding, unprecedented in our own history. I regret that these levels were not sustained by the Congress, but I am convinced that the initiatives taken by the Senate—by a better than 2-to-1 margin, after 2 days of discussion and debate—were of immense importance to the future of this program, and to raising our national sights to its true value.

The Senate-passed bill of a year ago would have authorized $140 million for support of the arts for the fiscal year just beginning—a figure reduced by the Senate-House conference to $100 million, and by this administration to a request for $82 million. Despite such reductions, a healthy increase in funding for both the Arts Endowment and its sister partner, the National Endowment for the Humanities, are prospects to which we look forward. I have urged full funding at the congressionally authorized level—$100 million for each endowment.

And I urge such levels with particular reference to the growth of Government support for the arts in Great Britain.

As a recent article in the New York Times points out, Great Britain is spending currently over $100 million a year for the arts. The British are providing that support with a population one-fourth the size of ours, and with a gross national product one-twelfth the size of our own. Were we to compare favorably with them we would be spending up to $1.2 billion annually through the National Endowment of the Arts.

The article in the Times is entitled "The British Miracle." The article emphasizes the remarkable vitality of the arts in Britain—a vitality which has produced world-wide acclaim, not to mention competition which often places our own creative artists at a disadvantage.

Mr. President, this is an article to which we should all give thought.

It was brought to my attention in particular by the thoughtfulness of one of my constituents, Mr. James O. Barnhill of Providence in my home State of Rhode Island. I ask unanimous consent that the full text be printed in the RECORD at the conclusion of my remarks.

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

THE BRITISH MIRACLE

(By Anthony Lewis)

LONDON, June 26.—Over the post-war years we have had the German Miracle, the Italian, the Japanese—the spurts of economic growth that made those countries newly rich. The British read about all that and longed for an economic miracle of their own, something to end the long slow slide down the international prosperity tables.

No economic magic has turned up here so far, unless it is the vision of North Sea oil in the future. But there has been a miracle of another kind, one that is not often men-

tioned but that is reason enough for the British to feel a sense of achievement. That is their record in the arts.

Visitors to this country are always struck by the extraordinary richness and variety of theater, music and dance. They may assume that it has always been thus in Britain, but it has not. The rich cultural life has been made possible by a transformation, in the last 25 years, of public and official attitudes toward the arts.

Before World War II, official interest in the performing arts was largely confined to censoring them. Shaw was just one of many who complained of an atmosphere hostile to creativity in ideas or forms. For 100 years and more efforts to build a national theater had got nowhere.

Today the British Government spends about $42 million a year on subsidies for theater, music and dance. Another $58 million goes to museums and galleries, and $4 million for the Film Institute. Other significant sums are spent by local governments, for building new theaters or subsidizing repertory companies.

The figure of over $100 million in national Government support for the arts is astonishing, considering Britain's size and economic situation. In the United States, Federal spending on aid to the arts is $61 million in the current fiscal year—a lower figure in a country with four times the population and about twelve times the gross national product.

Account must also be taken of the British Broadcasting Corporation, in a way the most significant cultural phenomenon in this country. While the public television stations of America struggle against official parsimony, the B.B.C. has revenues of $33 million a year from license fees imposed by Parliament. The B.B.C. carries on a good music network, its own orchestras, drama and a general creative program that makes its television output the most interesting in the world.

Of course artistic excellence need not depend on public money. One example of an institution that survives on private support is the incomparable Aldeburgh Festival, with its roots in the villages and churches and mysterious countryside of East Suffolk. To hear the music of Benjamin Britten or Henry Purcell in Aldeburgh is to feel the connection of land and art.

But there can be no doubt that the performing arts generally require public subsidy today to survive on a level above the frivolous. It is no accident that the plays of Harold Pinter, Tom Stoppard, David Storey and Edward Bond have usually been produced by the subsidized theater companies: the National, Royal Shakespeare and Royal Court. A new National Theater, an exciting building designed by Denys Lasdun and being built by the national and London governments, is nearing completion on the south bank of the Thames.

In the end it is not buildings or statistics that matter but particular artistic experiences. And so it is appropriate to anchor this attempt at describing something that Britain does well, very well, in the writer's experience of one performance.

It was Verdi's "Falstaff," played at the royal opera house, Covent Garden, the other evening with Tito Gobbi in the title role. "Falstaff" used to be considered an oddity; now performances are beseiged. More and more people have come to see this work of Verdi's eightieth year as an ultimate use of music and drama to express human weakness and glory, failure and aspiration.

The crucial thing about the character of Falstaff is that he is not a buffoon. Vain, yes, and gullible, and deceiving, but with a reservoir of wisdom and dignity and force; the force of life, for Falstaff is the symbol of life, of humanity with all its imperfections. That, at least, was what Verdi and his librettist, Boito, saw in the character. They perhaps saw more than Shakespeare.

The other night Tito Gobbi was all those things. He was the butt of the Windsor wives and their outraged men, but he remained larger than any of them; he remained in control. When he sang of how he had been slim enough to slip through a ring when he was page to the Duke of Norfolk, he sang of all our regretted yesterdays, but with spirit undimmed by physical change.

A great performance is always a small miracle. That the arts thrive as they do in this country is a larger one.

MISSING SERVICEMEN IN SOUTHEAST ASIA

Mr. BARTLETT. Mr. President, I believe my colleagues in the Senate will find interesting a report on our missing servicemen in Southeast Asia. I ask unanimous consent that there be printed in the RECORD a letter, dated July 9, 1974, from GILLESPIE V. MONTGOMERY, a Member of Congress from the 3d District of Mississippi.

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

HOUSE OF REPRESENTATIVES,
Washington, D.C., July 9, 1974.

DEAR COLLEAGUE: At the encouragement of the Defense Department and because of my own personal interest, I again went to the Far East during the Fourth of July Recess, this time only to seek information on the missing in action and the bodies of Americans not recovered from Southeast Asia.

I hope that you will be able to take just a few minutes to read this report, as I think that it will help update you on this sad and frustrating situation in which we find ourselves.

SOUTHEAST ASIA

There are 1140 Americans classified as missing in action and 1226 who were killed in action but whose bodies have not been recovered from communist zones.

The key to the whole situation is for the communists to let United States or neutral country identification teams go into the communist zones and recover our dead at the crash and grave sites and find out what happened to those who cannot be found in or near aircraft crash sites.

Not only did I meet with our Americans working on the MIA problem in Southeast Asia, but I also met with leaders of friendly governments in Laos and South Vietnam and with the Viet Cong in Saigon, the communist leaders in Laos (Pathet Lao), the First Counselor of the North Vietnamese Embassy in Laos, and the military attaches of India and Australia.

I asked only two questions of both the communist and the friendly representatives: First, Do you know of any Americans, military or civilian, classified as MIA who are still alive? Second, When are you going to let American or neutral identification teams go to crash sites and recover remains or determine if the pilot and/or crew got out of the plane? This is what I found out:

SOUTH VIETNAM

Ambassador Martin; the US representatives and Republic of Vietnam reprsentatives to the Four Party Joint Military Team (FPJMT); Col. Son, the Provisional Revolutionary Government (Viet Cong) representative to the FPJMT; B/G Ulatoski, Commander of the US Joint Casualty Resolution Center, all stated that they know of no Americans—military or civilian—classified as missing in action who are still being held captive in South Vietnam.

I asked the communists (Viet Cong) in Saigon, "When will you permit identification teams to inspect crash sites and bring home our dead for proper burial?" I was told that recovery of bodies was a little detail and they would not permit Americans to go to the sites. (Under the Paris Accords, we should be permitted to do this.)

Captain Rees, a member of an unarmed US identification team of our Joint Casualty Resolution Center, was murdered in cold blood by the Viet Cong on December 15, 1973, at a crash site in South Vietnam. Under the Paris Accords, we are required to notify the Viet Cong of intended site investigations, which no doubt helped them set up the ambush of Captain Rees's team; of course, since then no American teams have been sent out.

Any mention of Southeast Asia in the Congressional Record is read by the communists. They were quite disturbed by the Huber-Zablocki resolution (H. Con. Res. 271), which passed 374 to 0. The North Vietnamese and Viet Cong sometimes receive information from the Record before our own times receive information from the Record before our own members of the Four Party Joint Military Team in Saigon.

LAOS

I had long talks with the Deputy Prime Minister of the Coalition Government and the Minister of Economics, both communists (Pathet Lao). They were emphatic that the only American alive and held captive in their zone is Mr. Emmet Kay, an American civilian pilot captured after the ceasefire. I was told that he would be released as soon as the prisoner exchange between the Pathet Lao, the Royal Laotian Government, and the North Vietnamese could be worked out.

I met with General Michigan, India Army, who is head of the ICCS, and the Military Attache of the Australian Embassy. They both had only recently visited Sam Neva, Headquarters for the Pathet Lao in Northern Laos, and stated that they knew of no other Americans alive in Laos other than Emmet Kay.

General Vang Pao of the Royal Laotian Army told me he knew of no Americans still alive. He did mention that when he is permitted to go into communist areas, his group would be able to recover two American bodies.

The Deputy Prime Minister said the Pathet Lao would not permit American or other identification teams to go into their zone until the people were better acquainted with the new government and there was peace throughout Laos.

We pointed out in both Laos and Vietnam that time will destroy the crash sites and make finding the site and recovery of bodies impossible.

Since our government recognizes the new Laotian government, it is my understanding from US A.I.D. officials that Pathet Lao, as members of the coalition government, would be eligible for US aid. Ambassador Whitehouse assured me, however, that not one nickel of US aid would go into the communist zone of Laos until we had been given an accounting of our missing and have recovered the bodies of our men killed in Laos.

NORTH VIETNAM

I requested to go into North Vietnam, but my visa was turned down by them. However, I did meet with the Counselor of the North Vietnamese Embassy in Vientiane, Laos. He stated that there were no Americans still held captive in North Vietnam and that no search and identification teams would be permitted in North Vietnam until there was peace throughout Southeast Asia and the US had withdrawn its 24 thousand soldiers dressed as civilians in South Vietnam.

When the JCRC team went to Hanoi and picked up the bodies of 23 Americans who died in captivity in North Vietnam, there was a 24th body but the North Vietnamese would not release the remains of that Amer-

ican because they said he did not die in captivity.

CAMBODIA

The press corps in Saigon gave me pictures and descriptions of the 19 American and third country correspondents who are missing in Cambodia. I gave copies of these brochures to the three communist groups while in Saigon and asked that they give us information on these men. I did not go into Cambodia.

SUMMARY

(1) We tried so hard to develop evidence that Americans are still alive in Southeast Asia, other than Emmet Kay, but could not. The only way to be sure is for identification teams to go into the communist zones and search.

(2) I believe that the North Vietnamese have made good records of the American crash sites in North Vietnam, that the Viet Cong have some records, not as complete, and that the Pathet Lao have no records.

(3) The communists are not going to let us search the crash and grave sites until we bring some type of pressure on them. Time works against us since evidence at the site is very perishable in the tropical environment.

(4) The coalition government in Laos has a fighting chance of working. However, North Vietnam is going to continue fighting in South Vietnam and will not withdraw from Laos, in my opinion.

(5) The South Vietnamese are fighting well and are also giving us good assistance in resolving cases of the missing U.S. personnel that they can get to.

(6) In order ever to have peace in South Vietnam and in all of Southeast Asia, the major powers—Russia, China, and the U.S.—are going to have to reach an agreement on the continued supplying of these Southeast Asian nations with military aid.

(7) As elected officials and individuals, we must intensify and continue the public pressure for a full and factual accounting of MIA's and return of known dead. This appears to be the only tactic that has an effect on the other side.

Sincerely,

GILLESPIE V. MONTGOMERY,
Member of Congress.

P.S. I have requested a Special Order for Tuesday, July 16, and would urge you to join with me in discussing this important matter and showing that Members of Congress are vitally concerned about the plight of our missing servicemen.

CONSUMER PROTECTION AGENCY ACT

Mr. BAYH. Mr. President, I am pleased to add my support, as a cosponsor, to S. 707 to establish a Consumer Protection Agency. This landmark legislation reflects an awareness of consumer concerns within Government and business and is aimed at assuring that American consumers are listened to in matters affecting their health, safety, and their pocketbooks.

The most important function of the CPA will be to represent consumer interests before Federal agencies and courts. It will participate as an advocate in Federal agency proceedings to speak for the financial, safety, and health interests of consumers. The CPA will also be authorized, where necessary to protect consumer interests, to seek judicial review of an agency proceeding which by law is subject to review.

The CPA will in no respect have the power to regulate the activities of businesses. It will have no authority to issue regulations and orders governing the way individuals and businesses live or work. It will have no authority to force other Federal agencies to take any particular regulatory actions.

On the contrary, the CPA will act solely as an advocate and spokesperson for consumer interests.

Whenever we experience skyhigh mortgage rates or highly inflated price rises or fare hikes, when we have a meat shortage or a gas crisis, when we have a political milk deal or international wheat deal—the consumer is usually the first to feel the squeeze and often the last to be heard.

In part the consumer experiences these misfortunes because the agencies and departments of the Federal Government have often failed to have adequately put before them the needs and concerns of the consumer in the course of the decisionmaking process.

This legislation will guarantee that henceforth there will be someone in Washington to speak for consumers in the halls and hearing rooms of the Federal Government. This should help end some of the public's mistrust of Government.

The CPA bill is one of the most important pieces of consumer legislation ever to come before the Congress. It has been exhaustively considered since 1969. The Senate has twice before, in 1970 and 1972, considered on the floor legislation creating a Consumer Protection Agency. The Senate passed legislation by a vote of 74 to 4 in 1970 and in 1972 a final vote on the merits of the bill was prevented by filibuster. In both those years, as I do today, I support the CPA. This year, the House has already passed the CPA bill by a vote of 293 to 94.

Mr. President, since the CPA bill was considered in the Senate in 1972, my colleagues have undertaken extensive efforts to answer the criticisms expressed about the bill. This bill is expressely designed to insure that in protecting the consumer, the Agency does not unduly burden business and that the regulatory process is made more fair, expeditious, accountable, and responsive to the needs of consumers. It contains many safeguards to protect the responsible businessmen and not obstruct the orderly process of government.

Included among them are the following:

1. The CPA will have no regulatory authority. The CPA can not overrule, veto or impair any Federal agency's final determinations. CPA cannot institute enforcement proceedings against alleged violators of law, or impose fines or other penalties. No authority granted to the CPA may be construed to supersede, supplant, or replace the jurisdiction, functions or powers of any other agency to discharge its own statutory responsibilities. Sec. 3(2), Sec. 17(b).*

2. Limitations on CPA intervention. CPA may intervene as a party in formal agency proceedings, but the Administrator must exercise discretion to avoid unnecessary involvement. He must refrain from intervening as a party unless he determines that participation to that extent is necessary to adequately represent an interest of consumers. Where the submission of written views or information or the presentation of oral argument would suffice, he must limit his involvement accordingly. Sec. 7(a).

3. Protection against disruption and delay of agency proceedings and activities. When intervening or participating in agency proceedings, the Administrator must comply with the host agency's statutes and rules of procedure. Sec. 7(?) When submitting oral or written views in an informal agency activity, the Administrator must do so in an orderly manner and without causing undue delay. Sec. 7(b).

4. Protection against misuse of a host agency's compulsory process. Where CPA seeks to use an agency's subpoena authority for discovery purposes, the host agency retains discretion and control over the CPA's access to such authority. The host agency has discretion to deny CPA's request if it "reasonably determines" either than (1) it is not relevant to the matter at issue, (2) it would be unnecessarily burdensome to the person specified, or (3) it would unduly interfere with the host agency's discharge of its own statutory responsibilities. Sec. 7 ( ).

5. Limitations on CPA's Power to Issue Interrogatories to Business. The Administrator's authority to gather information from businesses through the use of interrogatories may not be exercised to obtain data which (1) is available as a matter of public record, (2) can be obtained from another Federal agency, or (3) is for use in connection with his intervention in any pending agency proceeding involving the person to whom an interrogatory is addressed. Sec. 11 (b)(2). Interrogatories may not be directed to businesses unless required to protect the health or safety of consumers or to discover consumer fraud or other unconscionable conduct detrimental to consumers. Moreover, any interrogatory must be relevant to a legitimate inquiry and not unnecessarily burdensome to the person to whom it is addressed.

6. Protection against arbitrary, capricious or vindictive intervention by the CPA. The Administrator is required to set forth explicitly and concisely in a public statement the interest of consumers which he is representing, and, to the extent practicable, any substantial interest of consumers which he is not representing, in any formal agency or court proceeding. Sec. 14(g). Any party to a proceeding or participant in any activity in which the Administrator took part may, where judicial review of the final agency action is otherwise accorded by law, obtain judicial review on the ground that the Administrator's intervention or participation resulted in prejudicial error. Sec. 14(e)(1)(8).

7. Protection against publicity of frivolous consumer complaints against a business, its products or services. Upon receipt of consumer complaints which the Administrator has determined are not frivolous, the CPA must notify the companies named and afford them a reasonable time to comment before complaints may be publicly displayed. When placed on public display, these complaints must be displayed together with any comments received. Sec. 10(c).

8. Limitations on CPA's access to information held by other federal agencies. Federal agencies may deny CPA access to classified information and restricted data whose dissemination is controlled pursuant to the Atomic Energy Act; policy and prosecutorial recommendations intended for internal agency use only; information concerning routine executive and administrative functions, personnel and medical files, and information which agencies are expressly prohibited from disclosing to another federal agency.

9. Protection against CPA access to income tax records. There is no authorization in this act to any federal agency to divulge the

* All Section references to bill as reported by the Government Operations Committee, May 28, 1974.

amount or source of income, profits, losses, expenditures, or any particular thereof, set forth or disclosed solely in any income return, or to permit the Administrator access to any Federal income tax return. This will insure that records which are now treated as confidential by the IRS with respect to access by other federal agencies will be treated in the same manner with respect to the CPA. Sec. 11(d).

10. Protection against disclosure of confidential information relating to business practices and trade secrets. Federal agencies may deny CPA access to trade secrets and other confidential business information if the agency could not have obtained the information without an agreement to keep it confidential and if the failure to obtain the information would seriously impair the carrying out of the host agency's program and CPA's access to it would be likely to cause substantial competitive injury to the person who provided it. Sec. 11(c)(6). Where CPA is given access to this information by another agency, CPA may not disclose it to the public. Where CPA obtains this data from a source other than another agency, it may disclose it only in two very limited circumstances: (1) when required to protect the public health or safety; or (2) in a manner designed to preserve confidentiality, to Congress, the courts, or another agency. Sec. 12(c).

11. Protections against disclosure to the public of false or misleading information regarding a business. CPA is directed to take all reasonable measures to insure that any information it discloses is accurate and not misleading or incomplete. If it is, CPA is required to promptly issue a retraction, take other reasonable action to correct the error, or release significant additional information which is likely to affect the accuracy or completeness of information previously released. Sec. 12(d).

12. Protection against "surprise" disclosures to the public of information likely to injure the reputation or good will of a business. The CPA is required, as a matter of course, to give prior notice to businesses likely to sustain injury due to release of information and to afford an opportunity to comment or seek injunctive relief, unless immediate release is necessary to protect the health or safety of the public. Sec. 12(d). In releasing information naming products or services CPA must make clear when all products have not been compared and CPA may not indicate expressly that one product is a "better buy" than another.

Mr. BAYH. Business can and should support the bill also. The following questions and answers address some business comments on the bill:

Q. Would CPA create more unnecessary bureaucracy unresponsive to consumers?

A. CPA is a response to the fact that the existing bureaucracy has been closed to those without power, money, and organization. CPA would "break in" to the bureaucracy, carrying the views of consumers who have been unable to penetrate the agencies making crucial decisions affecting them. Rather than increase bureaucracy, CPA would help to make it more responsibe to citizen interests.

Q. Would CPA be a super agency with powers never before given to a Government agency?

A. CPA would have absolutely no power to regulate, to impose penalties, to grant or deny licenses, or to make rules. It would serve simply as an advocate. CPA would have no greater right to obtain information from business or from other agencies than other government agencies.

Q. Would CPA radically alter the way Government relates to business?

A. To the extent that Government and business have reached closed-door decisions without giving due consideration to the consumer interest as defined in the bill would present relationship. However, CPA would not change the regulatory responsibilities of other agencies nor would it prohibit business and other interested parties from communicating with these agencies. CPA would simply open the door on these deliberations, exercising its right to participate to the same extent as other interested parties.

Q. Would CPA mean more delay and red tape for business?

A. CPA would be bound by the same procedural rules and time limits which apply to business and other parties to agency proceedings. CPA would simply enter an ongoing agency proceeding or activity, in accordance with the rules of the host agency. Also, the CPA will have limited resources ($15 to 25 million)—less, for example, than the Defense Department's public relations office; and it would therefore be able to participate in only a relatively few carefully chosen cases.

Q. Would CPA be a "dual prosecutor"?

A. CPA would have no power to decide the outcome of a case or to impose any fines or other penalties. Its rights in enforcement proceedings would be the same as those of other parties, i.e., the same rights to advocacy, discovery, cross-examination of witnesses, and presentation of evidence.

Q. Would CPA harass business with "fishing expeditions"?

A. CPA is given limited power to gather consumer-related information by sending interrogatives (i.e., questionnaires) to those engaged in business activities which substantially affect consumers' interest. Business can challenge these requests in court and they will be enforced only if CPA can show that they seek information that substantially affects consumer health or safety or which is necessary to discover consumer fraud or other unconscionable conduct detrimental to consumers. They will not be enforced if the recipient shows that they are excessively burdensome. Moreover, CPA cannot use this power if the information is already available publicly or from another agency. CPA has no independent subpoena power, but it does have the same right to ask a host agency to use its subpoena power during an agency proceeding as any other party has under the Administrative Procedure Act. CPA may also request that an agency issue a subpoena relevant to an informal agency activity, but the host agency will issue the subpoena only if it is relevant and not excessively burdensome either to the host agency or to the recipient.

Q. Could CPA expose trade secrets?

A. CPA employees would be subject to the same criminal penalties for unauthorized disclosure of trade secrets and other confidential information which apply to employees of other federal agencies. CPA would not be authorized to disclose trade secret or other information acquired from another agency if that agency stated that the information is exempt from disclosure under the Freedom of Information Act. Where CPA acquired trade secret information from another source, it could be disclosed only if necessary to protect the public health and safety.

Q. Would CPA have unique rights to seek judicial review of agency decisions which would open all agency decisions to "second guessing"?

A. No. CPA can seek judicial review of decisions in which it did not participate. However, participation in an agency proceeding is not a prerequisite for standing to seek review of the agency's decision. Any person who is "aggrieved" by a decision may seek judicial review of that decision whether or not he participated below. Where consumer viewpoint, CPA would change the statutory standing and it may initiate judicial action or intervene in an ongoing case, as any "aggrieved" party could. Prior to initiating judicial review of decisions in which he did not participate, however, CPA must petition the host agency for rehearing or reconsideration, even in cases where other interested parties would not be required to so petition. Thus, CPA's ability to seek review of these decisions to "second guessing" to which they are not already subjected.

Q. Would CPA make informal negotiations between Government and business impossible?

A. No, but CPA would participate in these non-structured activities by presenting written or oral submissions in an orderly manner and without causing undue delay. The Federal agency would have to give full consideration to these submissions. Such orderly participation does not make negotiations impossible. It merely assures that the decision-makers are cognizant of the impact proposed negotiated agreements will have on consumers before negotiations are concluded.

Q. Would CPA result in less consumer protection by increasing costs and reducing choice in the marketplace?

A. CPA would have no power to take products off the market or to set standards which products must meet. To the extent that products on the market are unsafe or ineffective, the consumer interest may warrant bringing these facts to the attention of the appropriate regulatory agency. CPA could petition the agency to act, but the regulatory agency would decide whether action was warranted, as they do today. If in fact a product is unsafe, consumer interests and common justice require that this fact be raised.

Mr. BAYH. This legislation cannot by itself guarantee the public will regain its faith in the integrity of the Government. Nor can it cure inflation or guarantee that no consumer will ever be overcharged or defrauded again. But it represents an important effort in that direction.

Yet, the great majority of American businesses have nothing to fear from the bill. The CPA will help to protect their good name and promote the consumer's faith in American business generally. It will help end the practices of a few that may give a whole industry a bad name.

I support the fundamentals of this bill and the basic concepts it contains and hope that the Senate after a reasonable time for debate will act favorably on the legislation.

Mr. President, I ask unanimous consent to insert in the RECORD at this point a copy of an editorial in support of the CPA which appeared in Business Week.

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

[From Business Week, April 6, 1974]

A CONSUMER SPOKESMAN

Businessmen understandably are somewhat nervous about the drive to create a federal agency charged with looking out for the interests of the U.S. consumer. But the legislation taking shape this week in the House deserves the support of business as well as the various groups that now speak for the consumer.

Basically, the bill would create an "ombudsman" to represent consumer interests before Congress and most federal regulatory agencies, including the Federal Trade Commission, the Food & Drug Administration, the Interstate Commerce Commission, and the new Product Safety Commission. Consumer interests are aggrieved, CPA is given include everything from quality to availability and adequacy of choice.

There is a danger, of course, that another agency would simply multiply the red tape and increase the delays that already frustrate businessmen when they deal with the government. But it is also possible that the new agency could help speed the regulatory process by improving input and clarifying issues.

Beyond that, a consumer agency could improve the level of debate between business and the consumerists. By putting a sharp focus on the vague charges the consumer groups now feel free to make, it could show business where its real problems are. And by equalizing the balance between well-financed, well-organized business groups and the often disorganized consumer spokesmen, it could help restore public confidence in the regulatory process.

The chances of getting a fair and workable bill adopted may be better now than they will be after election. There is no telling what part consumer unrest will play in next November's voting. But as Representative Frank Horton (R–N.Y.), a co-sponsor of the bill, says, "Prudence dictates moving when the situation is stable and the factors understood."

SENATOR RANDOLPH STRESSES EQUAL OPPORTUNITY FOR THE HANDICAPPED—COMMENDS U.S. NEWS & WORLD REPORT

Mr. RANDOLPH. Mr. President, I bring to the attention of the Senate an article in the July 22, 1974, issue of U.S. News & World Report " 'New Deal' for Handicapped in Jobs, Housing, Recreation . . ." The story states an improvement of the status in the areas for some handicapped individuals.

I am gratified that with the support of my colleagues, Federal legislation has been approved in the areas of education, rehabilitation, and housing for the handicapped. The Subcommittee on the Handicapped, which I have the responsibility to chair, has been involved in the development of regulations on transportation, architectural barriers, and consumer protection issues involving hearing aids and the distribution of energy supplies.

Despite these advances, which will guarantee equal opportunities for the same handicapped individual in many areas, I agree with those who state that all the problems of the handicapped will not be solved quickly. We must continue our efforts until we have reached a goal of equal opportunity for all handicapped Americans.

I commend U.S. News & World Report for bringing to the attention of the public information about the social and economic concerns of handicapped individuals. 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:

"NEW DEAL" FOR HANDICAPPED IN JOBS, HOUSING, RECREATION . . .

Fresh hope for better jobs—and a better life off the job—is dawning for the nation's 11 million physically and mentally handicapped persons.

Under pressure of rising militancy among these Americans, Government and business now are moving more boldly than ever before to bring them into the mainstream of the nation's economy and social concerns.

Spending on vocational rehabilitation is being stepped up. Jobs are opening to the handicapped in business and industry. At the same time, a major effort is under way to adapt housing, transportation and recreation facilities to needs of the handicapped—now often turned away because of their condition.

PLENTY OF COMPLAINTS

Experts in this field warn that the problems of such Americans will not be solved quickly. Complaints of unfulfilled promises still run high among the handicapped.

Yet there is growing determination to bring a "new deal" for these people who, in the past, have had to live in whole or partial dependency save for a fortunate few who "made it" through exceptional ability, family resources, hard work—and luck.

Much of this drive centers on the plight of many of the 320,000 disabled veterans of the Vietnam War—aimless, jobless and embittered. But it also extends generally to the blind, the deaf, the crippled, and the mentally retarded.

It is the handicapped themselves who are making sure that the nation becomes aware of their problems.

Their new mood was signaled a year ago when several hundred persons—many in wheel chairs—kept an all-night vigil at the Lincoln Memorial, in the capital, to protest a presidential veto of a rehabilitation bill passed by Congress.

Today, unwilling to languish on the fringes of U.S. society, the handicapped are lobbying, filing legal actions, and demonstrating in the new spirit of what some call "crutch power."

In the words of a U.S. official:

"The handicapped are going the way of the blacks and the Indians in demanding civil rights; the right to determine their own destinies."

About 100 handicapped persons, in wheel chairs and on crutches, gathered recently at a midtown intersection in New York City, causing a 3½-hour traffic jam at midday until they won an exemption from the State's odd-even gasoline-sales program.

MEASURE OF REGULATION

In Berkeley, Calif., two young disabled militants rebelled at what they regarded as overregulation of their lives by hospital officials. The pair forced the University of California to begin a special program for handicapped students with federal help under the program for aid to minority education.

In Florida, an organization calling itself WARPATH—World Association to Remove Prejudice Against the Handicapped—has threatened a major airline with a lawsuit, claiming that its president was taken off a scheduled flight because an agent did not think a person in a wheelchair should fly.

Jeffrey Friedman, a young law student, sued the commissioners of Cuyahoga County because, being in a wheel chair, he could not enter public buildings in downtown Cleveland. Result: All existing county-owned buildings and all future construction must have ramps and other features for the handicapped.

A paraplegic's legal suit is forcing Washington, D.C., to install elevators for the handicapped at all stations—at a cost of 65 million dollars—in the subway system now being built.

A major prop for this militancy is the Rehabilitation Act of 1973 and Department of Labor regulations. They add up to this:

Any company with a business contract of more than $2,500 with the Federal Government—an estimated half of all business enterprises in the United States—must take "affirmative action" to employ and promote the handicapped who are qualified.

Any handicapped individual can file a complaint with the Department of Labor if he feels that a business has failed to comply sufficiently with "affirmative action."

The Federal Government itself is a major employer of handicapped people.

At the end of 1973, over 2,000 severely handicapped people were employed in the executive branch after being hired under special, noncompetitive procedures, for jobs paying from $5,017 to $20,677 a year.

Of this number, more than a third, most of them deaf, were employed by the U.S. Postal Service, mostly as distribution clerks—unbothered by the consistently high noise level in that category of work.

The Internal Revenue Service employs 93 blind people in its offices across the country to answer taxpayers' questions—on the telephone or face to face.

IN WATERGATE CASE

A number of deaf-mute teen-agers are employed as messengers by the Watergate Special Prosecution Force.

Eighteen States have programs similar to the federal one for hiring handicapped people.

Furthermore, the Federal Government is paying 80 per cent of the States' costs of vocational-rehabilitation programs. Total federal spending for vocational rehabilitation—including disabled veterans—now comes to about 1 billion dollars a year.

During the fiscal year that started July 1, well over a million beneficiaries will be involved.

One reason for rising outlays—in addition to inflation—is concern over the status of many disabled veterans. Says Robert H. Ruffner of the President's Committee on Employment of the Handicapped:

"Many of the disabled young veterans are turned off. They see no future for themselves. They've got to be reached, encouraged and motivated. . . .

"Some employers just don't want the handicapped around. Some employers say 'They are too different,' or 'They will upset the other employes.' "

To help remedy that situation, the Veterans Administration has mailed out queries to 55,000 out of the 320,000 disabled Vietnam War veterans about their employment status and whether they need help in finding a job. So far, 12,000 have asked aid in finding a job or in job improvement.

Meanwhile, U.S. Government efforts to find jobs for veterans—disabled ones especially—continue to meet with frequent criticism as inadequate. Norman B. Hartnett, employment director of the Disabled American Veterans, told a Senate subcommittee on April 30, 1974:

"[The Department of] Labor's manpower administration officials have been insensitive to the needs of job-seeking veterans, and their indifference has been manifested by inadequate funding, insufficient staffing, intolerable delay, and an absence of innovative programs to enhance employment and training prospects for veterans.

"Further, the 'special emphasis' program for the employment of qualified disabled and Vietnam-era veterans by federal contractors may be best described as "Too little! Too late! Too lamentable!' because of woefully weak and totally inadequate regulations, and a lack of enforcement."

EMPLOYERS TAKE A HAND

In response to such criticism, the National Alliance of Businessmen, in co-operation with the Veterans Administration and the U.S. Employment Service, has been finding jobs for 10,000 disabled Vietnam War veterans. Reports of 4,424 placements were received during a recent 11-month period.

Numerous private business firms are actively involved in the effort to hire the handicapped. A few examples: Du Pont, the chemical-industry giant, employs more than 1,400 handicapped people in various occupa-

tions. A recent study showed that 91 per cent rated average-or-better in job performance when compared with the total employe population.

A recent three-year program of the Institute of Industrial Launderers to employ mentally retarded workers in its plants from coast to coast has yielded these results: More than 600 individuals received training; only 10 had accidents—nine of them minor—on the job. Ninety-four per cent had perfect attendance records.

Jeno's, Inc., a Duluth, Minn., food-processing firm, employs about 1,000 persons—about half of them with physical and mental impairments. On the payroll are deaf, blind, amputees, paralyzed and others. They hold positions at nearly all levels of the firm's operations.

Several Fairchild electronics plants are hiring the handicapped. One, on a Navajo Indian reservation in New Mexico, employs about 300 handicapped workers out of a total of 800.

The plant makes high-quality semiconductor devices used in virtually all types of electrical systems, including those for U.S. space programs.

CLEANEST BUILDINGS

In Portland, Oreg., an association of building owners and managers teamed up with a union local and a rehabilitation center to arrange for mentally retarded people to clean up office buildings at night. Result is said to be the cleanest downtown office buildings in the history of the city.

What about those Americans too severely handicapped to support themselves by working?

As of January, 1974, about 2 million such individuals were drawing disability checks averaging about $183 a month under the regular Social Security program. Some 1.3 million persons were drawing federal checks under a Supplemental Security Income program. Average payment is a little over $106 a month, augmented in many cases by payments from State welfare programs.

Summing up the trend, Bernard Posner, executive director of the President's Committee on Employment of the Handicapped, says:

"We see that people with some kinds of handicapped conditions still don't share in the good life. Among them are those with stigmatic conditions such as epilepsy and mental illness; those with disabilities which impede communications: blindness, deafness, cerebral palsy; those with disabilities that worsen as time goes on: multiple sclerosis, muscular dystrophy. So we have a long way to go."

Yet, he adds, the future for many handicapped Americans is increasingly hopeful. One reason: the worsening shortage of applicants for service jobs where relatively low status and pay often result in a high turnover rate.

QUALITY OF WORKERS

Said Mr. Posner: "It's no wonder that employers are increasingly turning to the qualified mentally retarded people as a way of filling such jobs with reliable workers." Parallel efforts are under way to improve the lives of the handicapped by removing many physical barriers.

The New Jersey housing finance agency recently ruled that all buildings it finances must be free of architectural barriers such as steps, narrow doors, inaccessible bathrooms, and elevators that cannot accommodate wheel chairs. The decision affects hundreds of millions of dollars' worth of multifamily housing.

In North Carolina, the State building code was recently amended to provide that 1 out of every 10 residential units in apartment projects be made accessible to handicapped occupants—including adjustable work areas in the kitchens, redesigned bathrooms, and electrical outlets mounted at a height that can be reached from wheel chairs.

The recently-launched San Francisco Bay Area rapid-transit system has aids for the handicapped such as elevators at 34 stations, wide car aisles for wheelchair access, ramps instead of steps, accessible rest rooms, and even Braille directional symbols for the blind.

Amtrak, the national railroad system, has established a policy of considering the requirements of the handicapped in designing new facilities. This involves level walks without steps, ramps and handrails, phones and water fountains at wheel-chair level, raised platforms at stations that meet the level of cars.

SPECIAL BUSES, TOO

The Department of Transportation is providing funds to three bus manufacturers to design a new kind of city bus more accessible to the handicapped and the elderly through reduced floor height, wider doors and advanced lift and ramp-design for boarding.

The National Park Service has issued a special National Park guide for the handicapped—who also benefit from transcripts of audio programs and lectures for the deaf; Braille markers and plastic contour maps for the blind; ramps, handrails and guardrails for visitors in wheel chairs; and oxygen, plus trained personnel to administer it, for heart patients at high-altitude spots.

In such ways, Government and private initiative—often under the pressure of militant "crutch power"—are moving to create brighter prospects and a better life for the nation's handicapped.

PROFILE OF AMERICA'S HANDICAPPED

About 11,265,000 Americans aged 16 to 64—one out of every 13 in that age group—are classified as physically or mentally handicapped beyond the normal range of human differences.

By category:

Retarded—3.5 million.

Paralyzed or physically deformed—1.8 million.

Cardiacs and hypertensives—1.4 million.

Advanced arthritis—1 million.

Deaf (totally or partly)—900,000.

Blind (totally or partly)—700,000.

Others—2 million.

More facts, based on the 1970 census, and excluding handicapped in institutions—

IN EDUCATION

Compared with the population at large, more of the nation's handicapped failed to complete the eighth grade—22 per cent compared with 14 per cent for total in U.S. Fewer of them—5 per cent against 9 per cent for the total population—completed four years of college or more.

IN INCOME

21 per cent of U.S. handicapped persons were living below the poverty level, compared with 14 per cent for the population as a whole.

IN JOBS

About 42 per cent of the adult handicapped were employed, compared with 53 per cent of the total adult population.

THE THIRD UNITED NATIONS LAW OF THE SEA CONFERENCE

Mr. PELL. Mr. President, I am sure that many of you are aware that the Third United Nations Law of the Sea Conference is now underway in Caracas, Venezuela. This conference hopes to deal not only with a regime governing the exploitation of the natural resources of the seabed, but with a broad range of related issues, including the breadth of the territorial sea, passage through international straits, fishing and the conservation of the living resources of the sea, the preservation of the marine environment and scientific research.

If successful, this conference could mark a new era of international cooperation and could create an independent source of economic assistance for developing nations. If a failure, this conference could mark the beginning of a dangerous period of jurisdictional and worldwide power conflicts. The recent fishing controversy between Great Britain and Iceland and the Aegean Sea Continental Shelf boundary dispute between Greece and Turkey are indicative of what the future holds for the world community if an agreement on these issues is not soon concluded.

The U.S. position on these issues has been generally positive and constructive. The original U.S. proposal, submitted to the United Nations in 1970, provided the basis for a farsighted and equitable international agreement. Since that time the United States has consistently bargained in good faith and made the compromises necessary to advance the negotiations.

Ambassador John R. Stevenson's recent conference speech indicating that the United States is willing to accept a conditional 200-mile economic resource zone is another example of the willingness of the United States to advance the efforts of international cooperation.

In this regard, I highly commend Ambassador Stevenson for his brilliant work in seeking to achieve a consensus.

Mr. President, I hope that the Senate will continue to support the U.S. delegation in their effort to obtain an international agreement which will protect not only the resource interests of the United States, but the long-term overall welfare of the entire international community. I ask unanimous consent that Ambassador Stevenson's 200-mile economic zone statement be printed in the RECORD.

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

ADDRESS BY AMBASSADOR JOHN R. STEVENSON

Three Auguries of a Successful 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 procedures, and second, the constructive, moderate tone and the developing consensus on substance reflected in the statement given in the last two weeks.

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 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 chairmen, 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 overall 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 package, including a satisfactory regime within and beyond the economic zone and provision for unimpeded transit of straits used for international navigation. 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 resources 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 the 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 made 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 coastal state jurisdiction that will keep 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 practical 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 settlement 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 mimimum 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 principal 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.

NEW TAX BREAKS FOR BUSINESS?

Mr. HUMPHREY. Mr. President, I would like to call the attention of the Senate to an article appearing in the Wall Street Journal of July 12 dealing with administration thinking on economic policy.

After months, even years, of inaction and standing pat with its tight money policy, the administration now seems to be moving toward an initiative in the direction of new and expanded tax subsidies to industry. These subsidies would be intended to stimulate investment and expand capacity.

It is clear that capacity constraints in many industries have limited growth and are a prime cause of inflation in 1974. Let me point out, however, that the existence of capacity constraints and rising prices themselves provide the strongest possible incentive for corporations to invest in new facilities. In fact, corporate investment has been the strongest component in this year's otherwise weak economy. Firms producing new machinery and equipment are booked up solid for many months into the future. Additional incentives would not add materially to those that already exist and, if they did, they would just extend the waiting time for delivery and help to drive up the prices of machinery and equipment even faster.

The only sector for which such expansion incentive might make sense is the machine tools and equipment sector itself, which is very slow to expand even in the face of heavy demand, because of the exceptionally cyclical nature of that business. This is the real bottleneck in the manufacturing sector of the economy. It would I believe, be a mistake to extend new tax subsidies indiscriminately to other investors.

Mr. Rush, the President's economic counselor, is quoted as saying that corporate cash flow—profits plus depreciation allowances—is not nearly sufficient to provide all the funds needed for investment. Even without any background as an economist. Mr. Rush should know that this is a thoroughly spurious and deceptive argument. Corporations do not expect to finance investments exclusively from cash flow. On average, 50 percent or more of industrial investment in this country is financed with borrowed capital.

It seems absurd to me that the Federal Reserves continues to run an unprecedentedly tight money policy with interest rates well above 10 percent, and that the administration simultaneously would consider measures to subsidize spending in the only really strong sector of the economy; namely, business investment. This combination is inconsistent. The proposal would add new corporate loopholes to the tax code, and we all know very well how difficult—how almost impossible—it is to close these loopholes once they exist.

I am glad to hear that Mr. Rush has agreed to testify at the mid-year hearings of the Joint Economic Committee, and I shall welcome the opportunity to clarify some of these issues with him at that time.

Mr. President, I ask unanimous consent that the article referred to above be printed in the RECORD.

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

DEMAND FOR MORE TAX INCENTIVES TO SPUR INDUSTRIAL EXPANSION PRESENTED TO NIXON

WASHINGTON.—The top White House economic policymaker reacted sympathetically to "a strong demand" by corporate executives that the government provide more tax incentives to spur industrial expansion.

Kenneth Rush, economic counselor to President Nixon, said the plea for business tax incentives was a major message that he and the President received in a White House meeting with 25 businessmen and economists. After the session, which lasted more than two hours, Mr. Rush told newsmen that while the Nixon administration firmly opposes any tax cut for individuals as inflationary, he considers tax incentives for industry as "noninflationary" because they would increase productive capacity rather than increase consumer demand.

The session, billed as the start of a new presidential effort to establish a "dialog" on inflation and the economy with various groups, didn't indicate any important new economic initiatives are in the works. Mr. Rush indicated the group generally endorsed the administration's policies, though they expressed concern about double-digit inflation and are "unhappy" about the troubled state of financial markets.

From the corporation chiefs, who included the heads of such companies as General

Motors Corp., Du Pont Co., U.S. Steel Corp., and Sears Roebuck & Co., the President and his aides heard "a strong demand for increasing the cash flow" of corporations through new tax preferences, Mr. Rush said. The businessmen suggested such moves as an increase in the investment tax credit, accelerated depreciation allowance and other write-offs against their federal income taxes.

The White House official, who said he would receive in writing and study the specific proposals of the meeting's participants, didn't commit the administration to support any new tax incentives for industry. But he indicated that the administration's opposition to tax cuts didn't necessarily apply to tax-reducing incentives for capital expansion.

"MUST HAVE HEAVY INVESTMENT"

"We must have heavy investment in new facilities by industry" to build the industrial capacity needed to overcome inflation-breeding shortages, Mr. Rush said. Corporations' current cash flow—profits plus depreciation allowances—aren't "nearly sufficient" to provide the funds needed for expansion, he said.

"A tax cut for individuals means increased demand without increased production," the official said. But a tax incentive that spurs industrial expansion would contribute to the fight against inflation, he contended.

President Nixon "didn't volunteer an opinion" on the businessmen's ideas for tax incentives, Mr. Rush said. "This was primarily a listening exercise," he added. Mr. Rush also indicated that the administration's position on tax incentives for industry won't be determined until a current study on future capital needs is finished. The study isn't likely to be done before the end of the year.

The official said he came away from the meeting encouraged that "the business people and the economists felt we are on the right track as of today" in pursuing an anti-inflationary economic policy.

SUGGEST AN EASING OF FED POLICY

"The businessmen felt the underpinnings of the economy are strong," Mr. Rush said. But "they are quite unhappy with the prime rate, with the state of the (stock) market, and the weakness in the bond market," he said. Another participant said that some businessmen suggested an easing of the Federal Reserve Board's monetary policy so that interest rates would decline.

There wasn't any discussion of the problems of the housing industry, one of the weakest sectors of the economy, Mr. Rush said. Several housing and home-financing trade associations publicly complained that they hadn't been invited to the White House to offer their views.

On another subject, Mr. Rush said he didn't think the credibility of the administration's anti-inflation position would be hurt by the President's decision to sign a veterans' education-benefits bill that's expected to add more than $700 million to federal outlays in the current fiscal year. Although the White House has stressed that its searching for ways to cut the budget, the President decided to sign the veterans' bill because Congress probably would have overridden a veto, Mr. Rush explained.

The official also minimized the impact of a $700 million addition to federal spending. "The amount involved here isn't of such a nature to have an impact on inflation," he contended.

NATIONAL ENERGY AND ENVIRONMENT POLICIES CAN BOTH BE WELL SERVED—SENATOR RANDOLPH URGES EPA CLARIFICATION ON COAL RECONVERSION—CITES TIMES ARTICLE

Mr. RANDOLPH. Mr. President, enactment last month of the Energy Supply and Environmental Coordination Act of 1974 was a realistic response by the Congress to the need for adjustment to present and anticipated energy situations.

This measure was developed deliberately and accommodates energy and the environment to each other in a workable manner. It establishes a procedure by which some electric generating plants could be converted from oil or natural gas to coal as a fuel. This conversion could take place, however, only under conditions designed to protect public health.

Mr. President, I regret that since passage of that act there has been misunderstandings about both its intent and effect. An article in the July 11 editions of the New York Times on the impact of this measure included information that was at variance with that we had received during consideration of the act.

Today I sent a letter to John R. Quarles, Deputy Administrator of the Environmental Protection Agency, describing the facts as I understand them and asking for that agency's plans for implementing the Energy Supply and Environmental Coordination Act.

Mr. President, I ask unanimous consent that the New York Times article and my letter to Mr. Quarles be printed in the RECORD.

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

LIMITED COAL USE IS SEEN FOR UTILITIES—U.S. AIDE SAYS FEW PLANTS MEET RULES

(By Edward Cowan)

WASHINGTON, July 10.—The second-ranking official of the Environmental Protection Agency says that "only a few" East Coast electric utilities will qualify, under new statutory standards to fuel their boilers with coal rather than oil.

John R. Quarles, the Deputy Administrator, acknowledged in an interview last week that one recent analysis by the agency put the number of eligible power stations at two. Mr. Quarles did not endorse that number, saying the question was still under study.

Under the Energy Supply and Environmental Coordination Act of 1974, signed by President Nixon on June 22, the Environmental Protection Administrator has wide latitude to restrict utility conversions to coal from oil. The bill was a result of the recent oil shortage.

Within the agency, sentiment is against such conversions because the available coal will be relatively high in sulphur content and few utilities have ordered or installed chemical "scrubbers" to keep sulphur oxides from escaping into the air.

In response to what the agency regards as an intensifying campaign by utilities for the installation of tall chimneys as an alternative to "scrubbers," E.P.A. physicians and scientists have made a new study. It tentatively concludes that "failure to control sulphur oxides emissions will result in thousands of excess deaths and millions of excess illnesses" during the period 1975–80.

"Excess" means deaths in addition to those that would occur if the emission and ambient air standards of the Clean Air Act are met.

However, the study itself acknowledged several important caveats" and said the findings were "clouded by significant scientific uncertainties involving many key aspects of the sulphur oxides problem."

A copy of the study, labeled "preliminary draft." was made available to The New York Times.

Among the tentative findings were that failure to meet air standards would lead to 6,000 "excess or premature deaths" a year, aggravated heart and lung disorders in elderly persons, more frequent attacks of asthma among persons afflicted with that ailment and 400,000 to 900,000 attacks a year of "acute respiratory disorders like croup, acute bronchitis and pneumonia" among otherwise healthy children.

STANCE OF UTILITIES

The document was made available to rebut arguments by some electric utilities, most notably the American Electric Power Company, that the Clean Air Act should be amended to sanction "tall stacks, monitoring" and "so-called intermittent controls" of sulphur emissions as an alternative to strict emission limitations.

"Intermittent controls" would be a temporary shutdown of a generator or temporary use of stand-by stocks of low-sulphur coal.

A. Joseph Dowd, a vice president and general counsel of American Electric Power, which generates 93 percent of its electricity from coal, told the Senate Public Works Committee on May 13 that under normal atmospheric conditions "tall stacks disperse emissions so widely in the atmosphere that their ground level concentrations are innocuous to human health."

The E.P.A. view is that such "dispersion" merely shifts the problem because eventually the sulphur oxides are changed into sulphuric acid, which falls as "acid rain."

Mr. Quarles recalled in the interview that during last winter's oil shortage "conversion captured a lot of publicity." In fact, he noted, a number of obstacles have become clear, including the unavailability of reliable supplies of coal, the growing fear of a coal shortage next winter and technical problems of adapting to coal.

Federal Energy Administration officials said an initial December estimate that 48 East Coast oil-burning utilities could convert to coal within a year had been scaled back to 14 utilities having 22 generating units. Of the 14, five or six could convert within a few weeks if they could find coal, one expert said.

"The industry hasn't responded with the alacrity expected," Mr. Quarles commented. He acknowledged that his own agency as well as state and local environmental regulators had figured in the hesitation.

BALKING ON CONTRACTS

The utilities, he said, do not want to sign long-term contracts to buy coal until they are sure what air standards are going to be. Without such contracts, the coal companies will not open the new mines necessary to provide additional large volumes of coal.

Mr. Quarles said that "the country does need to use its coal" and that "from my viewpoint, giving heavy emphasis to environmental concerns, it probably would be desirable to have more conversions."

In most cases, that means installation of scrubbers to trap sulphur oxides, Mr. Quarles said. The largest coal-burning utilities, American Electric Power and the Tennessee Valley Authority, oppose scrubbers, he noted.

"Many in the industry believe they should not be required to install continuous reduction technology," Mr. Quarles commented. "There is a widespread belief that this is an unsound thing to do." The opponents have said that the scrubbers are not reliable and that installation costs would be high.

"There is some merit to their position as to the degree of development of the technology," Mr. Quarles said. Consequently, he went on, the E.P.A. would not insist on having scrubbers installed by every plant that failed to meet the Clean Air Act's July 1, 1975, "deadline" for satisfying air standards.

"I hope to avoid a knock-down, drag-out

confrontation," Mr. Quarles said. "There has been some tendency within the industry to dig in their heels." He cited newspaper advertisements by American Electric Power saying that scrubbers created great volumes of sludge and that tall stacks would be cheaper and just as good.

"Many power plants can dispose of sludge," Mr. Quarles said. "They might have to buy some land or build some dikes. We already dispose of a lot of sludge in this country."

U.S. SENATE,
Washington, D.C., July 18, 1974.

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

DEAR MR. QUARLES: On June 26, 1974, the President signed the Energy Supply and Environmental Coordination Act of 1974. This measure represented a wholesome reconciliation by the Congress between national energy and environmental policies. Its successful implementation will represent a first step towards energy self-sufficiency through the increased use of domestic coal supplies consistent with the protection of public health and long-term environmental goals.

The success of this undertaking depends on the adoption of an affirmative stance towards the realistic implementation of this statute. I have discussed with John Sawhill, the Administrator of the Federal Energy Administration, the need to expeditiously designate those electric power plants that will be considered as potential candidates for conversion from oil and natural gas to coal. I was assured by Administrator Sawhill that his Agency would adopt a positive approach because of the significant contribution that this statute can supply in achieving the goals of Project Independence.

I am concerned by the recent article in the New York Times by Edward Cowan entitled, "Limited Coal Use Is Seen for Utilities," (a copy is attached) which reports you as saying "only a few" East Coast electric utilities will qualify for conversion from oil to coal under the criteria contained in the Energy Supply and Environmental Coordination Act. This information does not coincide with the preliminary data furnished to the Committee on Public Works by Roger Strelow, Acting Assistant Administrator for Air and Waste Management, by letter of May 31, 1974.

The letter indicated that some twenty-three electric power plants involving forty-two boilers conceivably might be converted provided, in some instances, additional particulate and/or sulfur oxide control systems are installed. It must be noted that a requirement for additional controls can be required by the Administrator of the Environmental Protection Agency as a condition of any conversions ordered by the Administrator of the Federal Energy Administration. This authority was intended to insure the protection of public health.

Thus, I am equally concerned by the statement in the New York Times article alluding to a draft EPA study that tentatively concluded that "'failure to control sulfur oxide emissions will result in thousands of excess deaths and thousands of excess illnesses' during the period 1975–80." Even if this is theoretically possible, it cannot occur under the provisions of the Energy Supply and Environmental Coordination Act.

I would appreciate an indication of the plans of the Environmental Protection Agency for the implementation of this Act and whether the Times' article accurately indicates your position or that of your agency.

With best wishes, I am,

Truly,

JENNINGS RANDOLPH, *Chairman.*

CHILDREN: A CASE OF NEGLECT

Mr. HUMPHREY. Mr. President, there is a scandal in health care for children in America and I want to commend ABC News for airing this shocking problem last night in an excellent documentary entitled, "Children: A Case of Neglect."

I have consistently worked to improve nutrition and preventive health care for our children. It is about time our Government shows some compassion for the millions of children who are neglected and mistreated. ABC documented a shocking picture of health care for children, that demands public attention.

We are the wealthiest nation in the world and in the history of mankind by any standards. We spend more than $94 billion on health care in America, but we have a two-class medical system. It is first class health care for those who can afford insurance or can afford to pay in advance for care. But it is second class for those who must rely upon free clinics, emergency rooms at crowded hospitals, and our overcrowded neighborhood health centers.

We have at least two acute barriers to good health care for our children. Price is the most abrasive barrier of them all. Some 25 percent of American children under 21 get inadequate medical care. Twenty million children are medical indigents. They come from the inner cities from families that earn less than $6,000 a year. They can not afford even basic health care.

A second barrier to good health is the shortage of doctors, especially in central cities and rural areas. Right here in our Nation's Capital, in Kingsman Park, which has a population of 85,000, people must make appointments 3 months in advance to see a doctor. It has only one general practitioner and he has a case load of 9,500 patients. Again, the children get little or no health care.

In some low-income areas within a few blocks of this Senate chamber, almost 33 percent of pregnant mothers get no prenatal care. A baby can be born in Iceland, Japan, Canada, Sweden or nine other nations that are not as wealthy as ours, and that baby has a better chance of surviving its first year than one born here. This is outrageous. Something must be done.

Mr. President, I shall address the crisis in child health care in further remarks in the Senate in the near future. At that time I shall present recommendations on specific legislative actions which can and must be taken without delay.

I applaud ABC News for this vitally important public service in presenting the story of the urgent need for extension and improvement of child health care in America. I wish to take this opportunity to mention those who have participated in the development and presentation of this program: Herb Kaplow, narrator; Brit Hume, investigative reporter and coauthor; Pamela Hill, coauthor and producer-director.

Mr. President, I ask unanimous consent that the text of this outstanding program be printed in the RECORD at this point.

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

ABC NEWS CLOSEUP ON CHILDREN: A CASE OF NEGLECT

HERB KAPLOW. Each year, there are about 12 million American children who never see a doctor. Why?

The infant death rate in this country is higher than in 13 other nations. Why?

Seven years after enactment of a government program to detect and treat children's illness, only about 10 per cent of the eligible children have even been examined. Why?

TORA MAE COLLINS. It wouldn't be so bad you know, if it was a grown-up because a grown-up can stand it, but a little child can't.

HERB KAPLOW. America is thought of as a nation of indulgent parents whose children get the best care money can buy. Americans themselves like to believe this nation cares for the health and happiness of its children.

HOP SPRIGGS. We had to let our children go on with round worms and they had got so bad on that one of them at least, had vomited up a large worm which could have easily could have taken its life.

Well, they get so they won't eat and they cough a whole lot and these are the symptoms that we've learned ourselves that causes it, its worms you see.

HERB KAPLOW. Some Americans are convinced that the children of poverty receive better care through Welfare and Medicaid than the children of those who pay their own medical and food bills.

Mrs. ROWE. The police said that boy's seriously ill said just go on, just get him to the emergency room and we took them to the emergency room and that doctor would not hardly come and he said could you deposit three days' pay cause we didn't have insurance. They'd asked me.

I said no, not at this time. He said, just take him home and give him some aspirin. It scared my husband to death. He had taken convulsions. We had to hold him in bed.

HERB KAPLOW. Many Americans assume that even the poorest children can be well fed and healthy if only their parents will take advantage of assistance programs.

Mrs. FITCH. Well, we don't have no care for Mitchell. He cries every night and I have to prop his legs up on pillows. He can hardly walk. I really don't know what's really wrong with him. You know I'd love to have him checked by doctors.

HERB KAPLOW. This is a program about a stark painful reality. It's about families who find it difficult or impossible to pay for medical care for their children and so it's about inadequate care or no care at all.

This is a program about the price children and their families are forced to pay because of this.

HOP SPRIGGS. It's very hard to have to stand by and see your children go without things that they really need, you know what I mean? It's not because we don't want to do it. It's just because we can't do it, you see.

HERB KAPLOW. This hour is about some of America's children and about five programs of the federal government that were designed to help them. It is about the inadequate care these children receive when they are sick. It is about their need for regular care.

It is about children who sometimes do not survive. It is not a program about the majority of American children who often get the best care money can buy but about a minority which is not as small as it may seem.

No one knows for sure but the most authoritative estimate is that each year there are about 12,000,000 children in this country who receive no medical care.

After three decades of remarkable general improvement in the health of America's

children they are still beyond the reach of the nation's health care system. Yet, in the one sense, these children are the lucky ones.

They are lucky because . . . They have lived on . . . despite an infant death rate that is sharply higher among poor people than among rich. These children have survived despite an overall infant death rate in America that is among the highest of any modern nation.

These are the children who have the highest incidence of easily correctible medical problems but who continue to suffer because they have the least food and medical care.

We haven't done much to provide needy children in this country with regular health care. What we have done is to provide some children with some crisis care, care which is available only in emergencies.

The 1960's brought about a revolution in the financing of medical services. With Medicare, the federal government set up a broad system to help the elderly pay for their medical needs. With Medicaid it was different. It involved the states and was designed to help people on welfare. And it did help many people. But Medicaid also became linked to the inequities of welfare. One result: children got the least out of Medicaid. Children make up almost half of Medicaid's eligible recipients. But children have gotten less than one fifth of Medicaid funds. The largest share of Medicaid has gone to the elderly supplementing what they receive from Medicare.

The result is dramatically illustrated by one statistic. Fifteen years ago children got about half of every federal dollar spent on personal health care. Today children get only 10¢ of that dollar. While needy people of all ages have been excluded from the American health care system, it has been children in need who have gotten the least.

Medicaid allows each state to administer its own program and set separate benefit levels. As a result, three states, New York, California, and Massachusetts have cornered half of all Medicaid funds.

Dr. Karen Davis of the Brookings Institution has determined that the south, where nearly half of America's poor people live, gets less than one fifth of the Medicaid money. The result is that a poor child receiving Medicaid in Wisconsin will receive a high $250 worth of benefits a year; while in New York, a child would get $182 a year. But a poor child in Mississippi will get $66 a year or in Kentucky only $83.

These differences in Medicaid benefits can mean the difference between sickness and health for children, between anxiety and peace of mind for parents. In some states like California and New York, benefits are available not just to the poor but to low income working families and their children.

In too many states, Medicaid doesn't even reach most of the poor children. In North Carolina, Arkansas, Louisiana, and South Carolina, for example, only one poor child in 10 receives any medicaid assistance, 9 out of every 10 poor children receive none.

RASHI FEIN. I think the medicaid experience was an experiment at trying to do these things through the states and I think that as an experiment, regrettably, it can be classified as a failure.

HERB KAPLOW. There is evidence that Medicaid actually misses as many poor children as it reaches.

Dr. Davis of Brookings has estimated that in 1972, six million poor children received Medicaid while the same number did not.

But the shortage of health care for children is not just a problem of the poor, and the appearance of health among working and middle class children is not always the reality.

Low income working families, are sometimes most in need of care. They are the families not poor enough for Federal programs and not rich enough to pay.

Among city children the least amount of money is spent on the health care of those from families earning $6,000 to $11,000 a year.

Mrs. CALDWELL. You spend a lot of sleepless nights, wondering how you're going to pay for 'em and who can you miss paying to try and pay the hospital bills or take them to the doctor. I do feel trapped. Because I can't meet . . . I can't do the things that I need to do with the salary I make and all of the Federal programs that I've applied for they said I weren't eligible.

HILL. Q. Why is that?

Mrs. CALDWELL. Well, they say because with my salary, I make too much. Even with six children.

HERB KAPLOW. If families in need live in a city, as Mrs. Caldwell does, then their children can probably get emergency treatment at a hospital. They may have to wait several hours.

They may have to accept charity or rely on local health programs which may or may not cover their children's needs. Or they may be saddled with bills they cannot pay.

Mrs. CALDWELL. Well, being a parent, naturally you worry, I guess, me, I think in the past three or four months I've lost about 13 pounds wondering and worrying about how I'll be able to pay, you know, for medical care and other bills that I'm just not really able to pay.

HERB KAPLOW. For needy children in rural areas, the problem is more serious. Local health programs and charity are less likely to be available. Hospitals and clinics are scarce and those that exist, are often unable to accept all the children who need attention.

Mrs. ROWE. I stay worried all the time 'cause we had a lot of sickness and when you go if you don't have the money, they are not interested in you. And we have been trying for ten months to get that medical card. We've not got it yet.

JAY BLEVINS. I know a lot of children that's never saw a doctor . . . School age children that never saw a doctor. . . .

They doctor them at home the best they can. Do what they can for them, sometimes they survive, sometimes they don't.

We just hope that it's not bad enough that we have to take them to a doctor. It's because we don't have the medical card to do it, we don't have the finance to cover it and we know for surely, they are not going to give us no help without these things.

ACT 2

HERB KAPLOW. To many American parents these faces reflect reality. But for some parents such images contradict the reality they see daily.

These are the parents of children who get no regular medical care, and sometimes, not enough food to eat.

Their children suffer problems which the most elementary medical attention, if given regularly, would prevent. Their children have the most trouble with their vision, their hearing and their teeth. . . . Studies have shown that ⅔ of all poor children in this country have never been to a dentist.

VIRGINIA SHEPARD. Well, every time I eat on my teeth, they hurt. . . . Uh, we start eating and they hurt and I go to, go to bed . . .

HERB KAPLOW. Examinations of poor children in 8 states of the Medicaid screening program have shown that one child in four is in need of dental work. . . . Untreated eye problems were found by the White House Conference on Children, in 1970, to affect 12 million children. . . . Since then, a screening program has found that as many as a quarter of the children examined have uncorrected sight problems.

CAROL YOUNCE. Well, it's been about five or six months and I, I've been having headaches just about every day since I broke my glasses. I can hardly see the board and it takes my grades down.

HARVEY WALLER. I couldn't see too much and I wanted some friends. And I didn't have nobody to play with.

HERB KAPLOW. For almost 10 years Harvey Waller was crosseyed.

HARVEY WALLER. And they talk about me. And they make me sad.

DIMPLE WALLER. When they are whipping him, he'd think they whip him just cause for nothing.

HARVEY WALLER. I wish I could play baseball—and I wish I can play football, and . . .

HERB KAPLOW. It was not until he was placed in a foster home that the Harris County Child Welfare Unit arranged the surgery.

HARVEY WALLER. And I wish I could play kick ball. . . .

DIMPLE WALLER. And now they treat him right 'cause he ain't crosseyed. They ain't got nothing to say about him.

HARVEY WALLER. I used to make C's and B's. . . . Now I make A's and B's.

MICHAEL DEAN CARROLL. In school, usually when I get a book to read, I can't understand the word, then I ask my teacher, and she, she said that I'm misunderstanding it again. You know them little ol' bitty ol' football . . . My brother, he, he threw one, and I couldn't see it, and it hit me in the arm. . . .

HERB KAPLOW. Children who suffer the most uncorrected eye problems also are vulnerable to hearing loss. . . . Two medical screening programs have shown, that from a fifth to a half of the children examined had some hearing problem.

TINA CARROLL. It's just that I have very bad hearing. . . . Yeah, I would get, when I get colds, and my ears would run or something, and I'd be, sometimes I would get a earache, just sometimes.

HILL. Tell me a little bit about that earache, Timothy. Tell me how bad it hurt?

TIMOTHY CARROLL. Bad . . .

TINA CARROLL. Well, if it start hurting real bad he starts screaming. Kind of, you know like, he told the doctor he can't hardly hear the teacher, and he talks real loud when he talks. . . .

TOM CARROLL. When you see a kid suffering, why you're suffering too . . . Timothy, well, I don't think, uh, you know he's gonna make, be able to make it to school, with his problems.

HERB KAPLOW. It isn't easy to pay attention if you have an ear problem and can't tell what's going on. It isn't easy to concentrate if you have a toothache all the time. . . . And it's hard to study if you have a headache because you need glasses, and it can be just as difficult if you haven't had enough to eat.

HILL. Q. What did they tell you at the clinic about being anemic?

MICHAEL DEAN CARROLL. They said that some time I never did get enough iron in my blood. . . .

HILL. Q. And-uh, did they tell you why?

MICHAEL DEAN CARROLL. They say I don't eat enough food.

HERB KAPLOW. Both Michael Dean and Timothy (Carroll) suffer a form of undernutrition shared by millions of other American children—iron deficiency anemia. . . . A recent survey of poor children in ten states found that in some areas, as many as 32% had iron deficiency anemia. . . . It is a condition that can lead to other problems, because scientists now know that anemic children have a lowered resistance to disease. The federal food stamp program has made progress in feeding needy families, but many

children still find that they don't have enough food to eat. . . .

JAY BLEVINS. And food going up every, day, and our stamps never been raised any . . . And that makes it kind of hard to make it stretch a month . . .

HILL. Q. About how long does a month's supply of food stamps last for a family of your, your size. . . .

MARY BLEVINS. I would say about two or two and a half weeks . . .

HOP SPRIGGS. Most times I would say, (three thirds) of the times during a month, it is a time without milk for us . . . I would say a lot of times they would have been hungry.

JEAN MAYER. The families on food stamps are perpetually behind the real cost of the food. If you have, uh, one or two adolescents in that family of four, with an almost bottomless appetite, then the amount allotted is grossly inadequate.

WINICK. And if you attempt to give medical care without giving adequate nutrition, is one, increase the amount of medical care you have to do, increase the cost of that medical care that you have to give and, at the same time, decrease your chances for success.

JAY BLEVINS. Well it makes me feel angry, bitter, helpless, all . . . I mean, not knowing, knowing that the kids should have more food than what they have . . . (music) . . .

V. O. And not anything that you can do about it.

C. ARDEN MILLER. I think it's close to a national scandal. As long ago as 1915 and before, we were anguishing, as a nation, over our public responsibilities toward children, and we've not really much progressed beyond that anguish.

Senator MONDALE. As a matter of fact, in running through children's programs, is an assumption that we're taking good care of our children. In fact, the statistics in many cases are shocking.

HERB KAPLOW. Some of those statistics deal with the immunization of children against disease, a process that has enabled medicine to control dread diseases like diphtheria, small pox and polio . . . All these diseases have declined sharply, but today half of all American pre-school children have not been inoculated against diphtheria, and nearly half of all poor children have not been immunized against polio in the crucial pre-school years.

HERB KAPLOW. What little we have done to provide regular preventive care for children has been threatened by actions of the Nixon Administration. First, the administration failed for three years to implement a program calling for the regular screening and treatment of Medicaid children.

The Early Screening program, as it is called, is supposed to provide periodic examinations for all Medicaid children with treatment whenever needed. The purpose is to get preventive care to some of the children most in need of it. The program was especially aimed at detecting and correcting elementary problems such as those affecting children's eyes, ears and teeth.

The Early Screening Program was enacted in 1968, and was supposed to take effect in mid 1969. But, by late 1970, the program was still not underway. Not until a lawsuit was filed by a citizen's group were any regulations issued for the program and it was not until 1972 that the program finally got started. Today HEW officials estimate that at least a dozen states are still not in compliance with the program, and only about ten per cent of the eligible children have been screened.

TRISTER. Under the statute the children are supposed to be screened periodically, It's supposed to be a regular process. Well, if you're only screening 10% in the first 7 years, it's gonna be some 15 or 20 years before you get around to seeing the children again, and this is just not what the program is intended to be.

Document: A private study made for the government estimates that, of all the children found to need treatment, less than half actually got it, and even fewer got the recommended dental and eye care.

WEINBERGER. I'm not familiar with the-uh, with those statistics, but, uh, we are undoubtly in a situation in some states where they haven't yet established the necessary networks of-uh, providers and of care. . . .

Senator MONDALE. The problem of screening is one of the most outrageous examples of lawlessness in terms of children's health. . . . Very few states have done anything, and the Federal government, that's supposed to enforce the law, has done practically nothing.

HUME. Mr. Secretary, we're seven years down the road from the enactment of this program . . . (unintelligible answer) . . . You acknowledge that a number of states are, are not in compliance . . . and you also indicate that no compliance action, uh, has been taken as yet against any state. Isn't it a little bit late for you to be talking here about, about patience and hope and so forth?

WEINBERGER. No, because the compliance program that the Congress enacted doesn't start until July 1, 1974 . . . We've not had any authority to withhold funds or take effective action. . . .

HUME. Do I understand you to say that the department was wholly without means to take enforcement action for the non, for noncompliance in this program?

WEINBERGER. There was no, uh, no specific enforcement authority on the books, uh, prior to July 1, '74, and that was only enacted quite recently.

Document: Medicaid Law—July 30, 1965. If the Secretary . . . finds . . . that in the administration of the plan there is a failure to comply substantially with any such provision; the Secretary shall notify such State agency that further payments will not be made to the State . . . or, that payments will be limited to categories . . . not affected by such failure.

HERB KAPLOW. Other HEW officials say the Department has been reluctant to cut off funds because it was considered too harsh.

The man who headed the Early Screening program until rceently, Barney Sellers, has told ABC News that he left the program dissatisfied with the Federal effort to make his program work. When he left, his staff had been cut from about 20 to fewer than 10, and no one else was being hired . . . There is another Federal effort for Child health that has been a striking success . . . It is the Children and Youth program established nearly a decade ago . . .

Dr. LAPORTE. (Baby Cries) Oh, I'm sorry . . . Yeah I'm sorry . . . Jeez . . . Aaaawwhh . . .

HERB KAPLOW. The program has never been large . . . There are 59 Children and Youth projects around the country. They reach only one of every 22 children who would benefit from such assistance . . . In the areas where they do operate the children enrolled receive a full range of medical attention, with the emphasis on preventive care . . . The success of the program is illustrated clearly by statistics. The annual cost of medical care for a child in the program has been cut significantly. The number of children hospitalized was reduced by 60% in a four year period.

HERB KAPLOW. The Children and Youth programs are now being turned over to the states as intended by the original legislation. Projects were formerly managed by the old Office of Maternal and Child Health within HEW. This office was the center of the Federal child health effort, but it has now been disbanded in the name of efficiency by the Nixon Administration. The staff formerly assigned to the Children and Youth project has been transferred to a new HEW bureau with more general responsibilities. The staff in the Department's regional offices has also been sharply reduced. These moves prompted Dr. Arthur Lesser, who headed the old maternal and child health office to leave the government in protest.

LESSER. If I were to continue, uh, I would, uh, perhaps tacitly, be giving the impression that all is well . . . the present administration's attitude towards the maternal and child health programs has not only been lacking in support, uh, but in certain respects it's actually been destructive.

CONNELY. All the remaining people still funded by the program to be carrying out activities in maternal and child health are now assigned to work in any kind of a program. If you're for example, a pediatrician, and prepare yourself, uh, yourself in your career to be expert in management of child health and child medical problems, you now may be assigned to go to work in old age homes. I don't think that's any incentive for any professional person.

DEGNON. Uh, last year the Congress indicated that it wanted the personnel within these programs maintained. Uh, subsequently, the administration decided that these personnel would not be available to the program, and recently Congress has had to come forward again and indicate once more to the Administration that the quality of these programs is to be maintained, and the personnel working in the programs are to remain with these programs.

HUME. Did not Congress specifically recommend that the positions, uh, be restored, while it was clear from the, uh, 1974 budget that they were to be eliminated, the positions.

WEINBERGER. Congress usually feels very strongly about anybody being dismissed because the person being dismissed goes to his Congressmen, and, uh, letters are written and pressures develop of that, from that source.

HUME. I wonder while you feel that, with a transition as yet incomplete, uh, why, dropping people at this point, is indeed a timely and, uh, sensible move . . . Uh . . .

WEINBERGER. We didn't feel that it was proper to, uh, nor did we have any basis for justifying a continuance of their employment . . . but there hasn't been any disruption in the program.

Document: Private study of the program done by the Academy of Pediatrics. Reduced effort in HEW regional offices . . . The effort being put forth represents at least a 50% reduction over a comparable time period last year . . . Comments raging from "chaos" to "severe depression" are readily offered by regional staff members, and equally readily perceived by those who speak with regional staff. Forty percent of positions for physicians previously identified with Title V programs in regional offices are vacant. Decentralization had reduced the level of technical competence for Title V programs to a point where the programs cannot function adequate.

DEGNON. The federal government in the regional offices are no longer in a position to provide the technical support to the states, as the states assume expanded responsibilities for the development of maternal and child health, and children and youth programs.

CUNNINGHAM. But many states, the medium and small size states, who have, uh, very small staffs and are very heavily dependent upon the assistance and consultation that they've been used to receiving from the Federal government, are going to have real difficulties.

MILLER. The Washington agencies, the re-

gional offices of HEW seem to be devoid of people with specific expertise in relation to children.

DEGNON. If most people knew of the programatic and budgetary manipulations going on in Washington in regard to health programs for children, there would just be a tremendous cry of outrage.

HERB KAPLOW. If a child happens to be born poor in this country, or black, that child has nearly 1½ to two times the chance of dying in its first year as do children born in the middle class. There are 8 American states where the infant death rate for minority children is over 75% higher than the national average for whites.

They are not just the southern states where poverty is concentrated. They include Indiana, Illinois, New Jersey, Wyoming, North Carolina, Alabama, Mississippi.

Our infant death rate is not a Southern problem nor is it a problem confined to minority groups. It is a national problem.

An American child would have a better chance of living through its first year, if it were born in Sweden. An American child would have a better chance of living through its first year if it were born in Japan or England, or Wales, or France, or across the border in Canada, or in eight other nations.

The richest and most technologically advanced country on earth is the United States. But to a pregnant mother who cannot afford to pay, like Tora Mae Collins, it offers almost no care and not enough to eat.

COLLINS. I went and had one checkup and that was when I found out that I was pregnant. Yes, he said that if I didn't have the money for my next checkup he wouldn't examine me.

HERB KAPLOW. The difference between what science knows and what society does is dramatically illustrated by America's infant death rate. Our high infant mortality is not a mystery. It is not a problem that science cannot resolve. Indeed, most authorities agree that we know what to do about it. But, so far we have not chosen to apply our knowledge.

To put it bluntly, we have not chosen to spend the money to reduce the over fifty-five thousand infant deaths each year.

HILL. How much did Paula weigh when she was born?

COLLINS. She was a full 9 months baby but she just weighed four pounds and 13 ounces cause I didn't have the right medical care.

HERB KAPLOW. Medical science has known for some time that small babies like Paula Collins—called low birth weight babies—die in considerably greater numbers than those of normal weight. Seventy percent of all infant deaths reported each year are low birth weight babies, weighing 5½ pounds or less.

Q. Has she been particularly sickly in these few months?

COLLINS. Yes, she has been sick just about all the time since she has been born, and we worry about her. Mostly sit up all night with her because she can't rest.

HERB KAPLOW. Poor white people have almost one and a half times the number of these fragile infants as middle class people have. Poor black people have roughly twice the number. The causes of low birth weight are complex, but an important cause, scientists now know, is malnutrition or undernutrition in the mother.

They also know that the less medical care a mother has in pregnancy, the more likely she is to have a low birth weight baby, or a baby born prematurely.

MAYER. We know that such children are much more likely to be underdeveloped either physically or mentally. They also seem to be more vulnerable to almost any infant disease. Anything which can be done to reduce the number of such children, is automatically going to also considerably reduce the infant mortality and the number of serious birth defects, including mental retardation.

HERB KAPLOW. What can be done is illustrated by a test program in Guatemala sponsored by our government. Additional food and medical care were provided to pregnant and nursing mothers and infant children. The early results show that in villages where food and care were given, the infant death rate was reduced to half that of the villages where no care was given.

JEAN MAYER. It's worth it to realize that we could bring down our infant mortality by almost fifty percent on the basis of what we know.

LESSER. With the present knowledge that we have there really is no excuse for this. We know what can be done about it, why don't we go ahead and do it?

JOHN KNOWLES. The differences in infant mortality amongst various social and economic groups is a pox on this country. It can't be tolerated and there's no excuse for it.

HERB KAPLOW. But even when low birth weight babies live, they often suffer a variety of later problems. Studies show that they do less well in school. They tend to be small. They have higher incidence of mental retardation and Cerebral Palsy. No one really knows for sure whether those problems are caused by the undernutrition of the pregnant mother, and the infant, or, whether they are caused by the deprived conditions in which poor children grow up. But some authorities believe we now have the knowledge to try and reduce the rate of mental retardation.

JEAN MAYER. Oh, I don't think there is any doubt but that sound nutrition could reduce the prevalence of mental retardation in this country. I'm not saying by any means that all mental retardation is due to malnutrition.

There are obviously a great many other reasons but, the link between mental retardation and low birth weight is very well established. The link between low birth weight and malnutrition is also very well established. And it is the inevitable consequence of this—that there is a link between mental retardation and malnutrition.

HERB KAPLOW. It is probably impossible to guarantee every child normal size at birth. But authorities are unanimous that the number of low birth weight infants could be sharply reduced if their mothers were better fed and cared for during pregnancy.

The best estimate is that 500–600 thousand pregnant mothers every year receive inadequate care. From 25 to 35 percent of low income women in large cities still deliver their babies with little or no prenatal care. The Federal Government has a small pilot to provide prescription food to pregnant and nursing mothers and their small children. It is called the Women, Infants and Children program and it now operates in two hundred twenty-nine communities. A hundred fifty thousand mothers and small children receive food.

Each community may choose its own way of delivering the food.

In Dallas it is delivered directly to the families.

Congress has now expanded the funding of this program to a hundred and fifteen million dollars, in order to preserve and expand the projects where they now operate. But even so, they reach fewer than eleven percent of the mothers and young children who might benefit from extra food.

This program would have lasted only three years. A delay by the Nixon Administration in getting it started has cut its life to about two years. The law creating this feeding program was enacted in September, 1972. It ordered that the program start immediately. And also specified that twenty million dollars be spent in each of the first two years of the program.

Document: In order to carry out the program . . . during the fiscal year 1973, the Secretary shall use $20,000,000 . . . In order to carry out such program . . . during . . . 1974 . . . the Secretary shall use $20,000,000.

But, by February of 1973, five months after the law was passed, the program had not yet begun. The Agriculture Department was saying openly that it had no intention of spending the designated twenty million dollars for the first year. And the Department planned to spend only about eight million in the second year.

YEUTTER. There was by no means the need to expend twenty million dollars the first year because the program wasn't in operation the first year and the question then became how much is needed in the second year. Forty million dollars, twenty million dollars or something less.

POLLACK. Congressional law was clear, forty million dollars shall be spent. The Executive has to comply with the law.

Q. HUME. Now, what is puzzling to me is how you and the people of the Office of Management and Budget, could get from that language something other than the intention that you should use twenty million dollars that year. How did you do that?

YEUTTER. I don't in any way disagree with the language that's present there, Brit, but at the same time, it seemed to me that any public official has an obligation not to waste funds that have been appropriated.

And I do not believe that the Congress meant shall use under any circumstances, shall use no matter whether practical or impractical, shall use if you have to pour it down the drain in your bathroom.

HERB KAPLOW. In June, 1973, Secretary Yeutter was warned by Senator Hubert Humphrey, one of the sponsors of the legislation, that the Department's failure to spend the specified amount, violated the intent of Congress.

Document: Senator Humphrey at the Select Committee Hearings:

"This is not optional the Secretary shall use $20 million.

"It is mandatory. It is obligatory, but nothing has happened . . . you apparently pay no attention to the laws we pass.

"—if the whole country did this, there would be unbelievable lawlessness."

HERB KAPLOW. In June, 1973, a Federal Court in Washington in response to a citizen's law suit ordered the Agriculture Department to begin the program immediately. In August, the Court further directed the Department to spend the forty million dollars designated by Congress.

There is another program which has proved what the Federal Government can do to reduce the number of infants who die in this country.

It is called Maternal and Infant Care. In nearly all the areas where the program has operated, the infant death rate has declined significantly.

There are 56 federal maternal and infant care projects around the country. The problem is that these reach only 130,000 women—only about 1 out of every 5 mothers who might benefit from such assistance.

It is not hard to understand why the program has succeeded. It provides nutritional advice during pregnancy. It provides regular checkups regardless of ability to pay.

VOICE. It is not hurting her—she just said she is tired of pushing.

WOMAN. OK, rest a little bit, baby.

VOICE. OK, I'm going to give you more oxygen to breathe. You are not hurting are you? Okay, where does it hurt you, right down at the bottom, or in your tummy? In your stomach?

HERB KAPLOW. And, if there is danger at

the time of birth, as in Diane Smith's case, it provides the special care that is needed.

Dr. GEORGE JACKSON. Here we go. It's a boy . . . (child crying). See him, see your baby.

DIANE SMITH. Oh, he looks just like my husband!

Dr. JACKSON. Just like your husband, he is a pretty baby.

HERB KAPLOW. The Maternal and Infant Care program is a companion to the Children and Youth preventive care programs examined earlier. Both were operated by the same agency inside HEW which has now been disbanded by the Nixon Administration.

Experts believe that this program, like its companion, is in jeopardy.

They fear that without adequate federal guidance and funding in the transition to the States the effectiveness of the program may be lost.

SECRETARY WEINBERGER. We believe very firmly that the States know more about their local problems than we do here in Washington, and that they would then use the money primarily to establish the Maternal and Infant centers so that you could make a massive attack on infant mortality and the other diseases associated with infancy.

LESSER. It's as if the government were saying, this nation's infant mortality rate with its serious internal differences, its serious disadvantage as compared with other nations, is no concern of the Federal Government at all.

DEGNON. These programs are not only in jeopardy in terms of being forced to reduce their service capacity—some of them may be in jeopardy insofar as having to close.

MILLER. We as a country have made no serious effort at all to see that these advantages, that these services reach every child who would benefit. We are still a long ways from that kind of commitment.

HERB KAPLOW. The Maternal and Infant Care programs have been a clear success despite the fact that they reach less than a fifth of those who could benefit.

For hundreds of thousands of others like Mary Shepard and her infant son, Steven, no such care is available.

MARY SHEPARD. Well, he had those worms, you know, and it's what killed him. He had them so bad that they couldn't cure him of them. I didn't know he had 'em until he took real bad off. I put him in the hospital and they couldn't do nothing for him.

HERB KAPLOW. It would cost money to avoid such deaths. But there is also a price for doing no more than we do now.

It is paid in the lives of small children.

ACT 4

Senator MONDALE. The easiest people to ignore in American Society are children. They usually accept being cheated with equanimity. They don't strike, they're just there.

So that you have this pathetic picture of infants and children, who should be our first priority, really our last. And they suffer in silence. And often their health is taken away from them for life.

HERB KAPLOW. The problems these children endure are often caused by the way they live. By inadequate nutrition, improper sanitary facilities, by unsatisfactory housing. More care and food will not eliminate all these problems, but it would be a long step forward; for millions of American children, it would change their lives.

If we care about our children, why then do we not give care to them more often? Why do we allow such distance between the popular image and the unfortunate reality? And how do we begin to close that distance?

One way to provide care for children in need is to help their families pay for it. Congress is now debating that solution in the form of National Health Insurance.

But no bill being seriously considered would give children the kind of complete priority that would make sure they receive care without financial barriers. And even the best National Health Insurance plan would only be a beginning for children in need. It would not help those who live where there are not enough doctors or clinics to care for them.

KNOWLES. No, just passing a law that finances medicine and facilitates or removes financial barriers to getting needed health services is not going to solve the problem.

FEIN. Well, I think we have to remember that the dollars are an important barrier to care but they're not the only barrier to care. In addition to having a system where people can afford to get the care, we do have to target our resources. We do have to develop special resources for child health care.

You've got to do more than eliminate the economic barrier. You've actually got to put services in place.

HERB KAPLOW: As we have seen tonight, doctors and hospitals alone can do little for the hungry child or one that is born to a hungry mother. For hunger continues in this country and until we change that, we will be haunted by the sickness that malnutrition brings to children.

The child health programs we have examined tonight are small and even they are faltering. In the past 15 years, federal money spent on health care has grown enormously. But children have gotten a steadily shrinking share of it. Where many other nations have moved ahead in child health and reducing infant deaths, America has lagged behind—leaving an estimated 12 million children every year without any medical care.

It may be argued that society is not responsible for sick and hungry children brought into the world by parents who cannot care for them. But, if society is not responsible, certainly these children are not either. They did not ask to be born poor and sick and if their parents cannot help them, is it possible that in this nation, in this time, we will not insist that they at least be given a chance, the chance that proper nutrition and decent health care can bring?

KNOWLES: You don't have to take it away from anybody, we can afford a couple of more billion dollars, quite frankly, to develop comprehensive health services for children and youths.

FEIN: Frankly, I'm tired of the argument that we ought to do these things because they are good economic investments.

I think we ought to do these things because we ought to be humane, and we ought to be decent.

I would like to think that we are a decent people.

DEPARTMENT OF AGRICULTURE—ENVIRONMENTAL AND CONSUMER PROTECTION APPROPRIATIONS, 1975

Mr. HRUSKA. Mr. President, on Monday next, the Senate will consider H.R. 15472 which makes appropriations for agriculture, environmental, and consumer protection programs, totaling in excess of $13.5 billion.

It is a vitally important measure, having a broad scope which has direct impact on virtually all persons and activities of our Nation.

In due time, this Senator will comment upon the bill as a whole.

These remarks will be devoted to the sole appropriation item of $305,000 for the purpose of collecting line-of-business data on business firms as determined by the Federal Trade Commission. [Page 50, lines 13 to 16, of the bill; page 70 of Senate report.]

After an account of history and background, I shall propose an amendment thereto.

LEGISLATIVE AUTHORITY FOR SUCH REPORTS

The Alaska Pipeline Act—Public Law 93–153—signed into law on November 16, 1973, contains authority for the FTC to gather the information called for by the reports in question.

This newly acquired authority has long been sought by FTC, but on grounds detailed later in my remarks was denied the same till passage of the act mentioned.

The need and purposes for the report data as described by the FTC include the following:

First. To enable the Commission to investigate the extent of competition in the U.S. economy in general and in specific industries;

Second. To ascertain industry performance as to profitability;

Third. To determine the extent of sales promotion activity in industry;

Fourth. To determine industry performance and expenditures in research and development; and

Fifth. That such data would be useful in supporting rational policy planning procedures within the Federal Trade Commission.

Additional purposes to which the data will lend itself would include the filing of civil antitrust suits by Government and by private parties; and access to data giving vital information and unfair competitive advantage to foreign corporations which are not required to file reports.

There is much to be said for the desirability of gathering such information. In general, this will be of some value overall.

But, Mr. President, to possess any usefulness and effectiveness of proposed reports requires, first, that they be reliable, uniform, accurate, and adequate; and, second, that they not contain data which will present distorted results. In the words of the economist—that they not be "contaminated" or be "polluted" with misleading figures.

In past years, authority for such reports has been denied by Congress principally because there has not been any reasonable assurance that such requirements as to quality would be forthcoming. This for a variety of reasons which I will state later.

Mr. President, it is submitted that the present procedures and forms proposed by FTC for these reports fail to meet these requirements. They cannot possibly comply with the necessities of a quality and of attributes which will do the job; which will make them useful and meaningful for their declared and intended purposes.

In fact great and irreparable harm will be inflicted upon the FTC program, upon the public generally, and upon our economy if the report forms and procedures presently proposed by the FTC are insisted upon.

The amendment which I shall propose will go far to assure a goodly degree of success toward meeting the stated requirements.

Mr. President, this subject is highly complex and technical. It goes deeply into structure and management features of American industry, as well as into the principles and procedures of accounting.

The stark, inescapable fact is that there are no rules or generally accepted accounting principles governing cost allocation common or uniform among segments of a company; nor are there generally accepted accounting principles to guide joint costs, or transfer pricing (whereby firms charge themselves for products moving from one division or subunit of a company to another of its divisions or subunits).

COMPTROLLER GENERAL'S REPORT ON PROPOSED FORMS

The Comptroller General, pursuant to the 1973 act, reviewed the proposed report program. His finding was that it was consistent with the requirements of the law, subject to the following provisions:

a. The approval to collect the data is limited to the initial round of reports and approval of additional cycles by GAO will be subject to significant reduction in or elimination of the problems which make the initial data unreliable.

b. FTC conducting intensive discussions with business representatives either on an across-the-board basis or on a sample or pilot basis to advance the ease and accuracy of line-of-business reporting as rapidly as possible, and

c. FTC exploring with other Federal agencies, including Census and Securities and Exchange Commission, the possibility of coordinating or consolidating its LB data needs with data collected by those agencies.

The Comptroller General's clearance was subject to expiration on December 31, 1975.

In his report rendered on May 13, 1974, to the Chairman of the FTC, the Comptroller General explains the reasons for the limited and restricted approval.

First he noted these objectives which have been directed to the report program:

1. The data submitted cannot be meaningful for stated FTC purposes and will be misleading if used as a basis for action because of line-of-business classification, cost allocation and transfer pricing (intra-company sales) problems;

2. The burden has not been minimized as required by statute; and

Then he goes on to discuss remiss meaningfulness of the data which the program calls for.

Mr. President, I ask unanimous consent that pertinent excerpts of the Comptroller General's evaluation report be printed at this point in the RECORD.

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

MEANINGFULNESS OF DATA

CLASSIFICATION

As we have indicated, there is considerable support for the idea of product-line reporting. There is a considerable amount of such reporting at the present time, but there are significant differences in details of the form and content of such reports.

For example, the Securities and Exchange Commission (SEC) now requires product-line reporting by companies filing its so-called 10K reports. It permits the reporting companies, however, to designate the product lines to be reported upon. While this permits flexibility and adaptation, it precludes meaningful aggregation, one of the FTC objectives.

The Financial Executives Institute, in May 1971, recommended including line-of-business disclosures in annual reports to shareholders. The New York Stock Exchange has endorsed this recommendation and has urged companies to make their annual reports to shareholders at least as informative as the SEC's 10K report. The Financial Accounting Standards Board is conducting a study of the problems of this type of reporting.

DILEMMA

This support in principle for line-of-business reporting disintegrates, however, when we turn to the specific FTC proposal. We believe this is because of a fundamental dilemma with regard to classification and related matters which is not yet fully resolved or compromised. On the one hand, individual business firms vary greatly in their organization, financial structure, and product lines. These variations are products of historical accident or the individual preferences of business leadership. To accurately reflect management, financial, and product-line structure of a specific business, therefore, the classifications and allocations must take account of these individualities.

On the other hand, if information is to be collected from 500 firms and compared and aggregated, the data must be collected on the basis of definitions and specifications sufficiently uniform to make comparison and aggregation possible. Given the variations in business structure, uniform definitions will require most, if not all, responding businesses to report on a basis different than that on which they operate, with consequent impact on management practices and costs.

The FTC, by reducing, redefining, and broadening its classes in each successive draft, obviously has tried to move toward resolution of this dilemma. The March submission contains some 225 categories of lines of business compared with approximately 600 earlier. The FTC staff reports that the reduction in categories has two purposes:

(1) the quality of the data is affected by joint (common) cost and transfer pricing problems. By broadening the categories and defining them on an establishment basis,[1] the magnitude of the joint cost and transfer pricing problems have been reduced; and

(2) the Bureau of Economic Analysis, Bureau of the Census, Federal Reserve Board, and the Conference Board complained that the LB data would not be consistent with any other data currently available. To respond to this complaint, the lines of business included in the March version were formed by beginning with the Standard Industrial Classification (SIC) system at the three-digit level with further breakouts for industries where concentration is high; where there has been substantial antitrust interest in the past; or, where firms within the three-digit category specialized in particular four-digit segments, e.g., printing machinery versus food machinery. The FTC expected these changes reduce the burden on the respondents.

However, the inherent conflict between FTC's product-line categories and individual business's normal management categories appears to remain. The aggregated figures on profits, sales, and expenditures by FTC line-of-business categories that will emerge from the reports probably will be neither accounting figures nor economic figures. The aggregated profit for each FTC category will be the end product of subjective judgment by each company in allocating costs common to two or more FTC categories and in computing transfer costs, and an arbitrary allocation of all of the sales, costs, and profits of a multi-category establishment to the category to which the primary activity of the establishment is assigned.

EXAMPLES

We do not know the extent to which the data will be distorted because of this practice, but examples furnished by companies suggest the distortion will be substantial. For instance, one company reports that three of its establishments in 1972 made shipments totaling $127 million that must be reported under FTC category 20.05 (Preserved fruits and vegetables excluding canned specialties), although 33⅓ percent of the sales actually should be distributed through seven other FTC categories.

Another firm reports that all sales and costs of one of its establishments will be allocated to a primary FTC classification although less than 50 percent of the total sales are represented by that category as follows:

FTC CATEGORY

(*Percent of Sales*)

	1971	*1972*
34.05 (Plumbing and heating, except electric)	39.1	42.4
36.07 (Household refrigerators and freezers)	40.2	36.1
35.20 (Refrigeration and service machinery)	19.9	21.5
36.12 (Household appliances)	.8	.0

Note, also, that in the example between 1971 and 1972 the "primary" category would have shifted from category 36.07 (Household refrigerators and freezers) to 34.05 (Plumbing heating, except electric).

A pulp and paper mill reports that of some $155,000,000 in sales all of which would be classified as FTC category 26.03 (Paperboard mills), 40 percent or $62,000,000 will be misclassified.

Another company reports that, although the LB program would require reporting of a larger number of business segments than are currently included in published financial statements and reports to the SEC, the FTC code would actually result in greater aggregation than is currently disclosed in at least one instance. In that case, industrial chemicals included in the company's published report and reported to SEC accounted for 18 percent of 1973 sales and 17 percent of net income; on an FTC basis the company would report 24 percent of 1973 sales and transfers and an estimated 18 percent of net income as industrial organic chemicals. This greater aggregation required by the FTC is further complicated because it represents only a portion of the reported industrial chemical sales and net income, and includes portions of two other business segments.

While measures of the distortion in aggregate sales figures can be compiled by the FTC from answers to Item D in the report form, the FTC will not be able to measure distortion of cost or asset data.

COST ALLOCATION

At present no rules or generally accepted accounting principles govern the allocation of costs common among segments of a company. A variety of practices are followed. Dr. Robert K. Mautz reports that data from an independent research project financed by the Financial Executives Institute Research Foundation on the subject of financial reporting by diversified companies "showed that common costs are often so material that changes in the method of their allocation can have a significant impact on reported net income for the segments reported."

[1] An establishment is a plant or economic unit, generally at a single physical location, where manufacturing operations or other services are performed.

The FTC's proposal for dealing with common costs is: (1) it will accept allocations of common costs already made by reporting companies and apparently intends to aggregate the resulting data although widely different allocation methods may have been used by different companies; and (2) for common costs not allocated by the reporting companies, the FTC will apply its own unspecified allocation formulas.

The subjective judgments by the FTC and the company in allocating common costs obviously will affect all figures to which they are applied as well as all figures derived from them, and the meaningfulness and comparability of such figures will be affected as well. Again the dilemma presents itself—varying individual business practices are not aggregatable, but if standard definitions are applied, the practices and the costs of the business area affected.

TRANSFER PRICING

The business and accounting communities regard transfer pricing as one of the very large unsolved problems in financial management. The FTC, itself, acknowledges that transfer pricing is one of the "stickiest" problems in line-of-business reporting.

Transfers of goods between divisions of a company present an extremely difficult accounting problem. The price at which one division or branch bills another for goods or services received is an arbitrary figure that has a great deal to do with the net profit reportable by both of the units affected. It constitutes income to one and cost to the other. Widely varying practices for pricing such transfers are found in business. Some companies use market value if a market exists for the item in question. Others transfer items between divisions at cost. Some use a price "bargained" between the divisions involved. Others use a price specifically selected to motivate the personnel in the affected divisions. Still others use an arbitrary billing amount for other special purposes.

Although the FTC asks for information about the method followed, it apparently plans to accept whatever practice is used and to aggregate the resulting line-of-business profit figures. Neither consistency nor accuracy can be expected.

Mr. HRUSKA. Mr. President, the most damaging portion of this evaluation report is found in the Comptroller General's words:

We do not know the extent to which the data will be distorted because of this practice, but examples furnished by companies suggest the distortion will be substantial.

This being so, revision of the forms must be made to apply as soon as possible.

HRUSKA AMENDMENT

Rather than require the filing of substantially distorted reports for 1973 and 1974 as now called for, my amendment would limit the initial reports to data on "sales or receipts" for those periods.

During the interim, all parties concerned would be called upon to direct their efforts to expedite development of meaningful, reliable data on all aspects for the following years.

The amendment provides that on page 50, line 15, between the words "data" and "from", the following "on sales or receipts"

Mr. President, the amendment I have submitted which restricts the gathering of data by the Federal Trade Commission to sales and receipts in conjunction with its line-of-business reporting program is done not to weaken this program but rather to strengthen the program by insuring that the data gathered is a valid reflection of the variables that are to be measured and recorded. This recommendation will strengthen the program by insuring that the Federal Trade Commission will proceed slowly and cautiously in its gathering of extremely sensitive and proprietary information.

The amendment in no way seeks to curb or hinder the line-of-business reporting. It is merely an attempt to encourage the Federal Trade Commission to heed the advice that the Government Accounting Office gave when it suggested that the Federal Trade Commission perform certain pilot tests on several firms before launching into a wide scale survey of our 500 largest manufacturing enterprises. The GAO suggested a pilot study because it rightly perceived that there would be enormous problems involved with the gathering and comprehension of such a diverse body of data which has never been collected or produced before. An alternative to conducting an in-depth pilot study on several firms, which the Federal Trade Commission has rejected, is to gather the data by categories and thus to familiarize oneself on a step-by-step, "learning-by-doing" process. This latter approach is exactly what my amendment seeks to accomplish. Namely, it would limit the Federal Trade Commission to collecting data on sales and receipts for the first year. In ensuing years, they would collect data on the more complex areas of costs and profits.

Now, to some, it would appear that collecting data on sales only would involve very little learning and experience. However, this is not a valid approach since it does not reflect two very difficult problems that arise even in the collection of sales data. Specifically these problems involve the treatment of intermediate goods and the evaluation of inventories and sold goods. With respect to intermediate goods, the problem, simply put, is the point at which an internal division treats an intermediate good as completed and hence a sold unit. Further, the inventories of these intermediate goods are often valued by different accounting methods between firms particularly in times of rapid inflation. In other words, even with what appears to be a simply defined and interpreted category such as sales or receipts, there can be enormous variances across firms leading to difficult problems of accurately interpreting the data. As the Federal Trade Commission learns of these problems of sales and learns how to deal with them, it will become more adept and sensitive to the graver problems of correctly interpreting cost data where joint costs and transfer costs occur.

Why is it so crucial that the Federal Trade Commission manage this project so carefully and competently? There are three major reasons for this caution:

First, the data are to be used to study the underlying structure of our economy which comprehension can lead to better economic policies but only if that structure is accurately portrayed;

Second, as the Federal Trade Commission itself admits, there may well be several major antitrust suits filed based on this data. Surely, we do not wish to undertake or impose the enormous litigation costs that this implies without being very certain that there is probable cause for such suits;

Third and most important, the GAO indicates that of the firms they sampled, the minimum start-up costs of compliance would be $350,000 per firm, which was made up of larger firms, whereas the FTC found no start-up costs of less than $50,000 for even the smallest firms. If we take a mean figure of $175,000 to account for small and large firms, the start-up costs alone will amount to $87,500,000 based on the Senate and FTC proposal for sampling 500 firms. Add to this the annual cost of compliance as reported by the GAO and FTC of 15 percent per year with 5–7 years needed before sufficient data is collected and we arrive at a total cost of compliance of $175,000,000. Since this is a cost of doing business, it will be passed on to the consumer.

Is it reasonable to ask the American consumer to absorb $175,000,000 of Government-imposed costs without a reasonable assurance that the funds are competently spent?

Mr. President, I cannot emphasize enough the fact that we are not attempting to undermine this program but rather insure its successful application. We sincerely believe that the Federal Trade Commission has seriously and erroneously underestimated the problems of aggregating company data along their arbitrarily drawn product lines.

The major reason that there are these serious, almost insurmountable compatability problems is that although there are general accepted principles for financial accounting which constitute profit-and-loss statements, there are no accounting principles which govern internal managerial accounting which is the major source of data for line-of-business reporting.

As Mr. Philip Hughes, Assistant Comptroller General for the General Accounting Office, stated in his report on line-of-business reporting:

This support in principle for line-of-business reporting disintegrates, however, when we turn to the specific FTC proposal. We believe this is because of a fundamental dilemma with regard to classification and related matters which is not yet fully resolved or compromised. On the other hand, individual business firms vary greatly in their organization, financial structure, and product lines. These variations are products of historical accident or the individual preferences of business leadership. To accurately reflect management, financial, and product-line structure of a specific business, therefore, the classifications and allocations must take account of these individualities.

Therefore, the inherent conflict between FTC's product-line categories and individual business' normal management categories appears to remain. The aggregated figures on profits, sales, and expenditures by FTC line-of-business categories that will emerge from the reports probably will be neither accounting figures nor economic figures. The aggregated profit figure for each FTC category will be the end product of subjective judgment by each company in allocating costs common to two or more FTC categories and in computing transfer costs, and an arbi-

trary allocation of all of the sales, costs, and profits of a multicategory to which the primary activity of the establishment is assigned.

We do not know the extent to which the data will be distorted because of this practice, but examples furnished by companies suggest the distortion will be substantial.

Therefore, given the enormous costs involved, the admitted and readily apparent technical problems, and the potential misuse of this data, are we not doing the Federal Trade Commission, the American consumer, and we lawmakers, a distinct service by compelling the Federal Trade Commission to proceed in a cautious and competent manner in an area which is so sensitive and critical yet where they have no actual experience? Has not this thoughtful learning-by-doing approach always been the most fruitful particularly when dealing with such complex projects? Finally, there are certainly no risks or costs involved in this approach, only the potential for enormous cost savings for all.

LEGAL SERVICES CORPORATION ACT OF 1974

The PRESIDING OFFICER (Mr. HATHAWAY). Under the previous order, the Chair now lays before the Senate the message from the House of Representatives on H.R. 7824.

The PRESIDING OFFICER laid before the Senate the amendment of the House of Representatives to the amendment of the Senate to the bill (H.R. 7824) entitled "An act to establish a Legal Services Corporation, and for other purposes," with amendment, as follows:

In lieu of the matter proposed to be inserted by the Senate amendment to the text of the bill, insert:

That this Act may be cited as the "Legal Services Corporation Act of 1974".

SEC. 2. The Economic Opportunity Act of 1964 is amended by adding at the end thereof the following new title:

"TITLE X—LEGAL SERVICES CORPORATION ACT

"STATEMENT OF FINDINGS AND DECLARATION OF PURPOSE

"SEC. 1001. The Congress finds and declares that—

"(1) there is a need to provide equal access to the system of justice in our Nation for individuals who seek redress of grievances;

"(2) there is a need to provide high quality legal assistance to those who would be otherwise unable to afford adequate legal counsel and to continue the present vital legal services program;

"(3) providing legal assistance to those who face an economic barrier to adequate legal counsel will serve best the ends of justice;

"(4) for many of our citizens, the availability of legal services has reaffirmed faith in our government of laws;

"(5) to preserve its strength, the legal services program must be kept free from the influence of or use by it of political pressures; and

"(6) attorneys providing legal assistance must have full freedom to protect the best interests of their clients in keeping with the Code of Professional Responsibility, the Canons of Ethics, and the high standards of the legal profession.

"DEFINITIONS

"SEC. 1002. As used in this title, the term—

"(1) 'Board' means the Board of Directors of the Legal Services Corporation;

"(2) 'Corporation' means the Legal Services Corporation established under this title;

"(3) 'eligible client' means any person financially unable to afford legal assistance;

"(4) 'Governor' means the chief executive officer of a State;

"(5) 'legal assistance' means the provision of any legal services consistent with the purposes and provisions of this title;

"(6) 'recipient' means any grantee, contractee, or recipient of financial assistance described in clause (A) of section 1006(a)(1);

"(7) 'staff attorney' means an attorney who receives more than one-half of his annual professional income from a recipient organized solely for the provision of legal assistance to eligible clients under this title; and

"(8) 'State' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

"ESTABLISHMENT OF CORPORATION

"SEC. 1003. (a) There is established in the District of Columbia a private nonmembership nonprofit corporation, which shall be known as the Legal Services Corporation, for the purpose of providing financial support for legal assistance in noncriminal proceedings or matters to persons financially unable to afford legal assistance.

"(b) The Corporation shall maintain its principal office in the District of Columbia and shall maintain therein a designated agent to accept service of process for the Corporation. Notice to or service upon the agent shall be deemed notice to or service upon the Corporation.

"(c) The Corporation, and any legal assistance program assisted by the Corporation, shall be eligible to be treated as an organization described in section 170(c)(2)(B) of the Internal Revenue Code of 1954 and as an organization described in section 501(c)(3) of the Internal Revenue Code of 1954 which is exempt from taxation under section 501(a) of such Code. If such treatments are conferred in accordance with the provisions of such Code, the Corporation, and legal assistance programs assisted by the Corporation, shall be subject to all provisions of such Code relevant to the conduct of organizations exempt from taxation.

"GOVERNING BODY

"SEC. 1004. (a) The Corporation shall have a Board of Directors consisting of eleven voting members appointed by the President, by and with the advice and consent of the Senate, no more than six of whom shall be of the same political party. A majority shall be members of the bar of the highest court of any State, and none shall be a full-time employee of the United States.

"(b) The term of office of each member of the Board shall be three years, except that five of the members first appointed, as designated by the President at the time of appointment, shall serve for a term of two years. Each member of the Board shall continue to serve until the successor to such member has been appointed and qualified. The term of initial members shall be computed from the date of the first meeting of the Board. The term of each member other than initial members shall be computed from the date of termination of the preceding term. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which such member's predecessor was appointed shall be appointed for the remainder of such term. No member shall be reappointed to more than two consecutive terms immediately following such member's initial term.

"(c) The members of the Board shall not, by reason of each membership, be deemed officers or employees of the United States.

"(d) The President shall select from among the voting members of the Board a chairman, who shall serve for a term of three years. Thereafter the Board shall annually elect a chairman from among its voting members.

"(e) A member of the Board may be removed by a vote of seven members for malfeasance in office or for persistent neglect of or inability to discharge duties, or for offenses involving moral turpitude, and for no other cause.

"(f) Within six months after the first meeting of the Board, the Board shall request the Governor of each State to appoint a nine-member advisory council for such State. A majority of the members of the advisory council shall be appointed, after recommendations have been received from the State bar association, from among the attorneys admitted to practice in the State, and the membership of the council shall be subject to annual reappointment. If ninety days have elapsed without such an advisory council appointed by the Governor, the Board is authorized to appoint such a council. The advisory council shall be charged with notifying the Corporation of any apparent violation of the provisions of this title and applicable rules, regulations, and guidelines promulgated pursuant to this title. The advisory council shall, at the same time, furnish a copy of the notification to any recipient affected thereby, and the Corporation shall allow such recipient a reasonable time (but in no case less than thirty days) to reply to any allegation contained in the notification.

"(g) All meetings of the Board, of any executive committee of the Board, and of any advisory council established in connection with this title shall be open to the public, and any minutes of such public meetings shall be available to the public, unless the membership of such bodies, by two-thirds vote of those eligible to vote, determines that an executive session should be held on a specific occasion.

"(h) The Board shall meet at least four times during each calendar year.

"OFFICERS AND EMPLOYEES

"SEC. 1005. (a) The Board shall appoint the president of the Corporation, who shall be a member of the bar of the highest court of a State and shall be a non-voting ex officio member of the Board, and such other officers as the Board determines to be necessary. No officer of the Corporation may receive any salary or other compensation for services from any source other than the Corporation during his period of employment by the Corporation, except as authorized by the Board. All officers shall serve at the pleasure of the Board.

"(b)(1) The president of the Corporation, subject to general policies established by the Board, may appoint and remove such employees of the Corporation as he determines necessary to carry out the purposes of the Corporation.

"(2) No political test or political qualification shall be used in selecting, appointing, promoting, or taking any other personnel action with respect to any officer, agent, or employee of the Corporation or of any recipient, or in selecting or monitoring any grantee, contractor, or person or entity receiving financial assistance under this title.

"(c) No member of the Board may par-

ticipate in any decision, action, or recommendation with respect to any matter which directly benefits such member or pertains specifically to any firm or organization with which such member is then associated or has been associated within a period of two years.

"(d) Officers and employees of the Corporation shall be compensated at rates determined by the Board, but not in excess of the rate of level V of the Executive Schedule specified in section 5316 of title 5, United States Code.

"(e)(1) Except as otherwise specifically provided in this title, officers and employees of the Corporation shall not be considered officers or employees, and the Corporation shall not be considered a department, agency, or instrumentality, of the Federal Government.

"(2) Nothing in this title shall be construed as limiting the authority of the Office of Management and Budget to review and submit comments upon the Corporation's annual budget request at the time it is transmitted to the Congress.

"(f) Officers and employees of the Corporation shall be considered officers and employees of the Federal Government for purposes of the following provisions of title 5, United States Code: subchapter I of chapter 81 (relating to compensation for work injuries); chapter 83 (relating to civil service retirement); chapter 87 (relating to life insurance); and chapter 89 (relating to health insurance). The Corporation shall make contributions at the same rates applicable to agencies of the Federal Government under the provisions referred to in this subsection.

"(g) The Corporation and its officers and employees shall be subject to the provisions of section 552 of title 5, United States Code (relating to freedom of information).

"POWERS, DUTIES, AND LIMITATIONS

SEC. 1006. (a) To the extent consistent with the provisions of this title, the Corporation shall exercise the powers conferred upon a nonprofit corporation by the District of Columbia Nonprofit Corporation Act (except for section 1005(o) of title 29 of the District of Columbia Code). In addition, the Corporation is authorized—

"(1)(A) to provide financial assistance to qualified programs furnishing legal assistance to eligible clients, and to make grants to and contracts with—

"(i) individuals, partnerships, firms, corporations, and nonprofit organizations, and

"(ii) State and local governments (only upon application by an appropriate State or local agency or institution and upon a special determination by the Board that the arrangements to be made by such agency or institution will provide services which will not be provided adequately through nongovernmental arrangements),

for the purpose of providing legal assistance to eligible clients under this title, and (B) to make such other grants and contracts as are necessary to carry out the purposes and provisions of this title;

"(2) to accept in the name of the Corporation, and employ or dispose of in furtherance of the purposes of this title, any money or property, real, personal, or mixed, tangible or intangible, received by gift, devise, bequest, or otherwise; and

"(3) to undertake directly and not by grant or contract, the following activities relating to the delivery of legal assistance—

"(A) research,

"(B) training and technical assistance, and

"(C) to serve as a clearinghouse for information.

"(b)(1) The Corporation shall have authority to insure the compliance of recipients and their employees with the provisions of this title and the rules, regulations, and guidelines promulgated pursuant to this title, and to terminate, after a hearing in accordance with section 1011, financial support to a recipient which fails to comply.

"(2) If a recipient finds that any of its employees has violated or caused the recipient to violate the provisions of this title or the rules, regulations, and guidelines promulgated pursuant to this title, the recipient shall take appropriate remedial or disciplinary action in accordance with the types of procedures prescribed in the provisions of section 1011.

"(3) The Corporation shall not, under any provision of this title, interfere with any attorney in carrying out his professional responsibilities to his client as established in the Canons of Ethics and the Code of Professional Responsibility of the American Bar Association (referred to collectively in this title as 'professional responsibilities') or abrogate as to attorneys in programs assisted under this title the authority of a State or other jurisdiction to enforce the standards of professional responsibility generally applicable to attorneys in such jurisdiction. The Corporation shall ensure that activities under this title are carried out in a manner consistent with attorneys' professional responsibilities.

"(4) No attorney shall receive any compensation, either directly or indirectly, for the provision of legal assistance under this title unless such attorney is admitted or otherwise authorized by law, rule, or regulation to practice law or provide such assistance in the jurisdiction where such assistance is initiated.

"(5) The Corporation shall insure that (A) no employee of the Corporation or of any recipient (except as permitted by law in connection with such employee's own employment situation), while carrying out legal assistance activities under this title, engage in, any public demonstration or picketing, boycott, or strike; and (B) no such employee shall, at any time, engage in, or encourage others to engage in, any of the following activities: (i) any rioting or civil disturbance, (ii) any activity which is in violation of an outstanding injunction of any court of competent jurisdiction, (iii) any other illegal activity, or (iv) any intentional identification of the Corporation or any recipient with any political activity prohibited by section 1007(a)(6). The Board, within ninety days after its first meeting, shall issue rules and regulations to provide for the enforcement of this paragraph and section 1007(a)(5), which rules shall include, among available remedies, provisions, in accordance with the types of procedures prescribed in the provisions of section 1011, for suspension of legal assistance supported under this title, suspension of an employee of the Corporation or of any employee of any recipient by such recipient, and, after consideration of other remedial measures and after a hearing in accordance with section 1011, the termination of such assistance or employment, as deemed appropriate for the violation in question.

"(6) In areas where significant numbers of eligible clients speak a language other than English as their principal language, the Corporation shall, to the extent feasible, provide that their principal language is used in the provision of legal assistance to such clients under this title.

"(c) The Corporation shall not itself—

"(1) participate in litigation on behalf of clients other than the Corporation; or

"(2) undertake to influence the passage or defeat of any legislation by the Congress of the United States or by any State or local legislative bodies, except that personnel of the Corporation may testify or make other appropriate communication (A) when formally requested to do so by a legislative body, a committee, or a member thereof, or (B) in connection with legislation or appropriations directly affecting the activities of the Corporation.

"(d)(1) The Corporation shall have no power to issue any shares of stock, or to declare or pay any dividends.

"(2) No part of the income or assets of the Corporation shall inure to the benefit of any director, officer, or employee, except as reasonable compensation for services or reimbursement for expenses.

"(3) Neither the Corporation nor any recipient shall contribute or make available corporate funds or program personnel or equipment to any political party or association, or the campaign of any candidate for public or party office.

"(4) Neither the Corporation nor any recipient shall contribute or make available corporate funds or program personnel or equipment for use in advocating or opposing any ballot measures, initiatives, or referendums. However, an attorney may provide legal advice and representation as an attorney to any eligible client with respect to such client's legal rights.

"(5) No class action suit, class action appeal, or amicus curiae class action may be undertaken, directly or through others, by a staff attorney, except with the express approval of a project director of a recipient in accordance with policies established by the governing body of such recipient.

"(e)(1) Employees of the Corporation or of recipients shall not at any time intentionally identify the Corporation or the recipient with any partisan or nonpartisan political activity associated with a political party or association, or the campaign of any candidate for public or party office.

"(2) Employees of the Corporation shall be deemed to be State or local employees for purposes of chapter 15 of title 5, United States Code.

"(f) If an action is commenced by the Corporation or by a recipient and a final order is entered in favor of the defendant and against the Corporation or a recipient's plaintiff, the court may, upon motion by the defendant and upon a finding by the court that the action was commenced or pursued for the sole purpose of harassment of the defendant or that the Corporation or a recipient's plaintiff maliciously abused legal process, enter an order (which shall be appealable before being made final) awarding reasonable costs and legal fees incurred by the defendant in defense of the action, except when in contravention of a State law, a rule of court, or a statute of general applicability. Any such costs and fees shall be directly paid by the Corporation.

"GRANTS AND CONTRACTS

"SEC. 1007. (a) With respect to grants or contracts in connection with the provision of legal assistance to eligible clients under this title, the Corporation shall—

"(1) insure the maintenance of the highest quality of service and professional standards, the preservation of attorney-client relationships, and the protection of the integrity of the adversary process from any impairment in furnishing legal assistance to eligible clients;

"(2)(A) establish, in consultation with the Director of the Office of Management and Budget and with the Governors of the several States, maximum income levels (taking into account family size, urban and rural differences, and substantial cost-of-living variations) for individuals eligible for legal assistance under this title;

"(B) establish guidelines to insure that eligibility of clients will be determined by recipients on the basis of factors which include—

"(i) the liquid assets and income level of the client,

"(ii) the fixed debts, medical expenses, and other factors which affect the client's ability to pay,

"(iii) the cost of living in the locality, and

"(iv) such other factors as relate to finan-

cial inability to afford legal assistance, which shall include evidence of a prior determination, which shall be a disqualifying factor, that such individual's lack of income results from refusal or unwillingness, without good cause, to seek or accept an employment situation; and

"(C) establish priorities to insure that persons least able to afford legal assistance are given preference in the furnishing of such assistance;

"(3) insure that grants and contracts are made so as to provide the most economical and effective delivery of legal assistance to persons in both urban and rural areas;

"(4) insure that attorneys employed full time in legal assistance activities supported in major part by the Corporation refrain from (A) any compensated outside practice of law, and (B) any uncompensated outside practice of law except as authorized in guidelines promulgated by the Corporation;

"(5) insure that no funds available to recipients by the Corporation shall be used at any time, directly or indirectly, to influence the issuance, amendment, or revocation of any executive order or similar promulgation by any Federal, State, or local agency, or to undertake to influence the passage or defeat of any legislation by the Congress of the United States, or by any State or local legislative bodies, except where—

"(A) representation by an attorney as an attorney for any eligible client is necessary to the provision of legal advice and representation with respect to such client's legal rights and responsibilities (which shall not be construed to permit a recipient or an attorney to solicit a client for the purpose of making such representation possible, or to solicit a group with respect to matters of general concern to a broad class of persons as distinguished from acting on behalf of any particular client); or

"(B) a governmental agency, a legislative body, a committee, or a member thereof requests personnel of any recipient to make representations thereto;

"(6) insure that all attorneys engaged in legal assistance activities supported in whole or in part by the Corporation refrain, while so engaged, from—

"(A) any political activity, or

"(B) any activity to provide voters or prospective voters with transportation to the polls or provide similar assistance in connection with an election (other than legal advice and representation), or

"(C) any voter registration activity (other than legal advice and representation);

and insure that staff attorneys refrain at any time during the period for which they receive compensation under this title from the activities described in clauses (B) and (C) of this paragraph and from political activities of the type prohibited by section 1502(a) of title 5, United States Code, whether partisan or nonpartisan;

"(7) require recipients to establish guidelines, consistent with regulations promulgated by the Corporation, for a system for review of appeals to insure the efficient utilization of resource and to avoid frivolous appeals (except that such guidelines or regulations shall in no way interfere with attorneys' professional responsibilities);

"(8) insure that recipients solicit the recommendations of the organized bar in the community being served before filling staff attorney positions in any project funded pursuant to this title and give preference in filling such positions to qualified persons who reside in the community to be served;

"(9) insure that every grantee, contractor, or person or entity receiving financial assistance under this title or predecessor authority under this Act which files with the Corporation a timely application for refunding is provided interim funding necessary to maintain its current level of activities until (A) the application for refunding has been approved and funds pursuant thereto received, or (B) the application for refunding has been finally denied in accordance with section 1011 of this Act; and

"(10) insure that all attorneys, while engaged in legal assistance activities supported in whole or in part by the Corporation, refrain from the persistent incitement of litigation and any other activity prohibited by the Canons of Ethics and Code of Professional Responsibility of the American Bar Association, and insure that such attorneys refrain from personal representation for a private fee in any cases in which they were involved while engaged in such legal assistance activities.

"(b) No funds made available by the Corporation under this title, either by grant or contract, may be used—

"(1) to provide legal assistance with respect to any fee-generating case (except in accordance with guidelines promulgated by the Corporation), to provide legal assistance with respect to any criminal proceeding, or to provide legal assistance in civil actions to persons who have been convicted of a criminal charge where the civil action arises out of alleged acts or failures to act and the action is brought against an officer of the court or against a law enforcement official for the purpose of challenging the validity of the criminal conviction;

"(2) for any of the political activities prohibited in paragraph (6) of subsection (a) of this section;

"(3) to make grants to or enter into contracts with any private law firm which expends 50 percent or more of its resources and time litigating issues in the broad interests of a majority of the public;

"(4) to provide legal assistance under this title to any unemancipated person of less than eighteen years of age, except (A) with the written request of one of such person's parents or guardians, (B) upon the request of a court of competent jurisdiction, (C) in child abuse cases, custody proceedings, persons in need of supervision (PINS) proceedings, or cases involving the initiation, continuation, or conditions of institutionalization, or (D) where necessary for the protection of such person for the purpose of securing, or preventing the loss of, benefits, or securing, or preventing the loss or imposition of, services under law in cases not involving the child's parent or guardian as a defendant or respondent.

"(5) to support or conduct training programs for the purpose of advocating particular public policies or encouraging political activities, labor or antilabor activities, boycotts, picketing, strikes, and demonstrations, as distinguished from the dissemination of information about such policies or activities, except that this provision shall not be construed to prohibit the training of attorneys or paralegal personnel necessary to prepare them to provide adequate legal assistance to eligible clients;

"(6) to organize, to assist to organize, or to encourage to organize, or to plan for the creation or formation of, or the structuring of, any organization, association, coalition, alliance, federation, confederation, or any similar entity, except for the provision of legal assistance to eligible clients in accordance with guidelines promulgated by the Corporation;

"(7) to provide legal assistance with respect to any proceeding or litigation relating to the desegregation of any elementary or secondary school or school system;

"(8) to provide legal assistance with respect to any proceeding or litigation which seeks to procure a nontherapeutic abortion or to compel any individual or institution to perform an abortion, or assist in the performance of an abortion, or provide facilities for the performance of an abortion, contrary to the religious beliefs or moral convictions of such individual or institution; or

"(9) to provide legal assistance with respect to any proceeding or litigation arising out of a violation of the Military Selective Service Act or of desertion from the Armed Forces of the United States.

"(c) In making grants or entering into contracts for legal assistance, the Corporation shall insure that any recipient organized solely for the purpose of providing legal assistance to eligible clients is governed by a body at least 60 percent of which consists of attorneys who are members of the bar of a State in which the legal assistance is to be provided (except that the Corporation (1) shall, upon application, grant waivers to permit a legal services program, supported under section 222(a)(3) of the Economic Opportunity Act of 1964, which on the date of enactment of this title has a majority of persons who are not attorneys on its policy-making board to continue such a nonattorney majority under the provisions of this title, and (2) may grant, pursuant to regulations issued by the Corporation, such a waiver for recipients which, because of the nature of the population they serve, are unable to comply with such requirement) and which include at least one individual eligible to receive legal assistance under this title. Any such attorney, while serving on such board, shall not receive compensation from a recipient.

"(d) The Corporation shall monitor and evaluate and provide for independent evaluations of programs supported in whole or in part under this title to insure that the provisions of this title and the bylaws of the Corporation and applicable rules, regulations, and guidelines promulgated pursuant to this title are carried out.

"(e) The president of the Corporation is authorized to make grants and enter into contracts under this title.

"(f) At least thirty days prior to the approval of any grant application or prior to entering into a contract or prior to the invitation of any other project, the Corporation shall announce publicly, and shall notify the Governor and the State bar association of any State where legal assistance will thereby be initiated, of such grant, contract, or project. Notification shall include a reasonable description of the grant application or proposed contract or project and request comments and recommendations.

"(g) The Corporation shall provide for comprehensive, independent study of the existing staff-attorney program under this Act and, through the use of appropriate demonstration projects, of alternative and supplemental methods of delivery of legal services to eligible clients, including judicare, vouchers, prepaid legal insurance, and contracts with law firms; and, based upon the results of such study, shall make recommendations to the President and the Congress, not later than two years after the first meeting of the Board, concerning improvements, changes, or alternative methods for the economical and effective delivery of such services.

"RECORDS AND REPORTS

"SEC. 1008. (a) The Corporation is authorized to require such reports as it deems necessary from any grantee, contractor, or person or entity receiving financial assistance under this title regarding activities carried out pursuant to this title.

"(b) The Corporation is authorized to prescribe the keeping of records with respect to funds provided by grant or contract and shall have access to such records at all reasonable times for the purpose of insuring compliance with the grant or contract or the terms and conditions upon which financial assistance was provided.

"(c) The Corporation shall publish an annual report which shall be filed by the Corporation with the President and the Congress.

"(d) Copies of all reports pertinent to the evaluation, inspection, or monitoring of any grantee, contractor, or person or entity receiving financial assistance under this title shall be submitted on a timely basis to such grantee, contractor, or person or entity, and shall be maintained in the principal office of the Corporation for a period of at least five years subsequent to such evaluation, inspection, or monitoring. Such reports shall be available for public inspection during regular business hours, and copies shall be furnished, upon request, to interested parties upon payment of such reasonable fees as the Corporation may establish.

'(e) The Corporation shall afford notice and reasonable opportunity for comment to interested parties prior to issuing rules, regulations, and guidelines, and it shall publish in the Federal Register at least 30 days prior to their effective date all its rules, regulations, guidelines, and instructions.

"AUDITS

"SEC. 1009. (a)(1) The accounts of the Corporation shall be audited annually. Such audits shall be conducted in accordance with generally accepted auditing standards by independent certified public accountants who are certified by a regulatory authority of the jurisdiction in which the audit is undertaken.

"(2) The audits shall be conducted at the place or places where the accounts of the Corporation are normally kept. All books, accounts, financial records, reports, files, and other papers or property belonging to or in use by the Corporation and necessary to facilitate the audits shall be made available to the person or persons conducting the audits; and full facilities for verifying transactions with the balances and securities held by depositories, fiscal agents, and custodians shall be afforded to any such person.

"(3) The report of the annual audit shall be filed with the General Accounting Office and shall be available for public inspection during business hours at the principal office of the Corporation.

"(b)(1) In addition to the annual audit, the financial transactions of the Corporation for any fiscal year during which Federal funds are available to finance any portion of its operations may be audited by the General Accounting Office in accordance with such rules and regulations as may be prescribed by the Comptroller General of the United States.

"(2) Any such audit shall be conducted at the place or places where accounts of the Corporation are normally kept. The representatives of the General Accounting Office shall have access to all books, accounts, financial records, reports, files, and other papers or property belonging to or in use by the Corporation and necessary to facilitate the audit; and full facilities for verifying transactions with the balances and securities held by depositories, fiscal agents, and custodians shall be afforded to such representatives. All such books, accounts, financial records, reports, files, and other papers or property of the Corporation shall remain in the possession and custody of the Corporation.

"(3) A report of such audit shall be made by the Comptroller General to the Congress and to the President, together with such recommendations with respect thereto as he shall deem advisable.

"(c)(1) The Corporation shall conduct, or require each grantee, contractor, or person or entity receiving financial assistance under this title to provide for, an annual financial audit. The report of each such audit shall be maintained for a period of at least five years at the principal office of the Corporation.

"(2) The Corporation shall submit to the Comptroller General of the United States copies of such reports, and the Comptroller General may, in addition, inspect the books, accounts, financial records, files, and other papers or property belonging to or in use by such grantee, contractor, or person or entity, which relate to the disposition or use of funds received from the Corporation. Such audit reports shall be available for public inspection, during regular business hours, at the principal office of the Corporation.

"(d) Notwithstanding the provisions of this section or section 1008, neither the Corporation nor the Comptroller General shall have access to any reports or records subject to the attorney-client privilege.

"FINANCING

"SEC. 1010. (a) There are authorized to be appropriated for the purpose of carrying out the activities of the Corporation, $90,000,000 for fiscal year 1975, $100,000,000 for fiscal year 1976, and such sums as may be necessary for fiscal year 1977. The first appropriation may be made available to the Corporation at any time after six or more members of the Board have been appointed and qualified. Appropriations shall be for not more than two fiscal years, and, if for more than one year, shall be paid to the Corporation in annual installments at the beginning of each fiscal year in such amounts as may be specified in appropriation Acts.

"(b) Funds appropriated pursuant to this section shall remain available until expended.

"(c) Non-Federal funds received by the Corporation, and funds received by any recipient from a source other than the Corporation, shall be accounted for and reported as receipts and disbursements separate and distinct from Federal funds; but any funds so received for the provision of legal assistance shall not be expended by recipents for any purpose prohibited by this title, except that this provision shall not be construed to prevent recipients from receiving other public funds or tribal funds (including foundation funds benefiting Indians or Indian tribes) and expending them in accordance with the purposes for which they are provided, or to prevent contracting or making other arrangements with private attorneys, or with legal aid societies having separate public defender programs, for the provision of legal assistance to eligible clients under this title.

"SPECIAL LIMITATIONS

"SEC. 1011. The Corporation shall prescribe procedures to insure that—

"(1) financial assistance under this title shall not be suspended unless the grantee, contractor, or person or entity receiving financial assistance under this title has been given reasonable notice and opportunity to show cause why such action should not be taken; and

"(2) financial assistance under this title shall not be terminated, an application for refunding shall not be denied, and a suspension of financial assistance shall not be continued for longer than thirty days, unless the grantee, contractor, or person or entity receiving financial assistance under this title has been afforded reasonable notice and opportunity for a timely, full, and fair hearing.

"COORDINATION

"SEC. 1012. The President may direct that appropriate support functions of the Federal Government may be made available to the Corporation in carrying out its activities under this title, to the extent not inconsistent with other applicable law.

"RIGHT TO REPEAL, ALTER, OR AMEND

"SEC. 1013. The right to repeal, alter, or amend this title at any time is expressly reserved.

"SHORT TITLE

"SEC. 1014. This title may be cited as the 'Legal Services Corporation Act'."

TRANSITION PROVISIONS

SEC. 3. (a) Notwithstanding any other provision of law, effective ninety days after the date of the first meeting of the Board of Directors of the Legal Services Corporation established under the Legal Services Corporation Act (title X of the Economic Opportunity Act of 1964, as added by this Act), the Legal Services Corporation shall succeed to all rights of the Federal Government to capital equipment in the possession of legal services programs or activities assisted pursuant to section 222(a)(3), 230, 232, or any other provision of the Economic Opportunity Act of 1964.

(b) Within ninety days after the first meeting of the Board, all assets, liabilities, obligations, property, and records as determined by the Director of the Office of Management and Budget, in consultation with the Director of the Office of Economic Opportunity or the head of any successor authority, to be employed directly or held or used primarily, in connection with any function of the Director of the Office of Economic Opportunity or the head of any successor authority in carrying out legal services activities under the Economic Opportunity Act of 1964, shall be transferred to the Corporation. Personnel transferred to the Corporation from the Office of Economic Opportunity or any successor authority shall be transferred in accordance with applicable laws and regulations, and shall not be reduced in compensation for one year after such transfer, except for cause. The Director of the Office of Economic Opportunity or the head of any successor authority shall take whatever action is necessary and reasonable to seek suitable employment for personnel who do not transfer to the Corporation.

(c) Collective-bargaining agreements in effect on the date of enactment of this Act covering employees transferred to the Corporation shall continue to be recognized by the Corporation until the termination date of such agreements, or until mutually modified by the parties.

(d)(1) Notwithstanding any other provision of law, the Director of the Office of Economic Opportunity or the head of any successor authority shall take such action as may be necessary, in cooperation with the president of the Legal Services Corporation, including the provision (by grant or otherwise) of financial assistance to recipients and the Corporation and the furnishing of services and facilities to the Corporation—

(A) to assist the Corporation preparing to undertake, and in the initial undertaking of, its responsibilities under this title;

(B) out of appropriations available to him, to make funds available to meet the organizational and administrative expenses of the Corporation;

(C) within ninety days after the first meeting of the Board, to transfer to the Corporation all unexpended balances of funds appropriated for the purpose of carrying out legal services programs and activities under the Economic Opportunity Act of 1964 or successor authority; and

(D) to arrange for the orderly continuation by such Corporation of financial assistance to legal services programs and activities assisted pursuant to the Economic Opportunity Act of 1964 or successor authority.

Whenever the Director of the Office of Economic Opportunity or the head of any successor authority determines that an obligation to provide financial assistance pursuant to any contract or grant for such legal services will extend beyond six months after the date of enactment of this Act, he shall include, in any such contract or grant, provisions to assure that the obligation to provide such financial assistance may be assumed by the Legal Services Corporation,

subject to such modifications of the terms and conditions of such contract or grant as the Corporation determines to be necessary.

(2) Section 222(a)(3) of the Economic Opportunity Act of 1964 is repealed, effective ninety days after the first meeting of the Board of Directors of the Legal Services Corporation.

(e) There are authorized to be appropriated for the fiscal year ending June 30, 1975, such sums as may be necessary for carrying out this section.

(f) Title VI of the Economic Opportunity Act of 1964 is amended by inserting after section 625 thereof the following new section:

"INDEPENDENCE OF LEGAL SERVICES CORPORATION

"SEC. 626. Nothing in this Act, except title X, and no reference to this Act unless such reference refers to title X, shall be construed to affect the powers and activities of the Legal Services Corporation.".

Resolved, That the House recede from its disagreement to the amendment of the Senate to the title of the bill.

The PRESIDING OFFICER. The time for debate on the motion to concur in the House amendment is limited to 30 minutes, to be equally divided between the majority and minority leaders or their designees. Who yields time?

Mr. GRIFFIN. Mr. President, I suggest the absence of a quorum, and ask unanimous consent that the time for the quorum call be equally charged to both sides against the time that is allotted with respect to the Helms amendment.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. JAVITS. 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. JAVITS. Mr. President, I ask unanimous consent that John Scales may have the privilege of the floor during the debate on the legal services matter.

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

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

The PRESIDING OFFICER. Under the same conditions?

Mr. JAVITS. Yes.

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. HELMS. 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. HELMS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

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

The PRESIDING OFFICER. The Chair will state that no motion has been made as yet relative to H.R. 7824.

Mr. HELMS. I thank the Chair.

Mr. GRIFFIN. Mr. President, reserving the right to object, if I may proceed, I understood that the motion had been made to concur in the House amendment.

The PRESIDING OFFICER. The Chair was informed otherwise, but the Chair will check further.

The Chair will state that time has been provided until the hour of 2 p.m. for the possible motion, but no motion has been made from the floor as yet.

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

Mr. HELMS. I yield.

Mr. JAVITS. I understand that a motion was pending. A unanimous consent agreement was made upon that pending motion and a vote has been provided for the pending motion.

Mr. GRIFFIN. That is my understanding, also, I wish to say to the Chair.

The PRESIDING OFFICER. The Chair stands corrected. A check of the RECORD does show that a motion to concur in the House amendment was made last Tuesday. So the question is on agreeing to the motion to concur in the House amendment to the Senate amendment to H.R. 7824.

Mr. HELMS. I believe there is a time limitation. Would the Chair state it?

The PRESIDING OFFICER. The time limitation on the motion to concur is 30 minutes.

Mr. HELMS. Mr. President, I yield myself such time as I may require.

The PRESIDING OFFICER. If the Senator will suspend for a moment, the time on the motion to concur in the House amendment, with amendments, is limited to 90 minutes, equally divided between the Senator from North Carolina and the Senator from Wisconsin.

Mr. HELMS. Mr. President, before proceeding to a motion that I shall make shortly, I might say for the RECORD that there is considerable misunderstanding among Members of the Senate about what is afoot in this matter. I shall address myself to that in some detail in a few moments.

I have just discussed with three Senators in the cloakroom and elsewhere this morning—purely by chance—on my way to the floor, as to just what is involved in this legislation, and it is their impression that backup centers have been removed absolutely from this bill.

I shall address myself to forthright statements by the distinguished proponents of the bill momentarily, but I want to make a unanimous-consent request, which I shall make in good faith, which should clear up any misunderstanding on the part of any Senator.

Since there is this misunderstanding, not by the Senator from North Carolina but by many Senators who have not been able to be present on this floor—as is the case right now, obviously—in a moment I shall ask unanimous consent that this bill be sent to the Judiciary Committee for 7 days, so that the Judiciary Committee can examine it and report back to the Senate whether in fact the backup centers and their activities have, indeed, been eliminated.

Mr. President, I say this with the full knowledge that the distinguished Senator from New York (Mr. JAVITS), the distinguished Senator from Ohio (Mr. TAFT), and others have made clear that the backup center activities are not eliminated. But I want the Senate to know exactly what it is voting on. That is the only purpose of my desire to refer this matter for 1 week—just 7 days, Mr. President—to the Committee on the Judiciary, after which time the Committee can report back its understanding of what this measure is all about.

If the Committee on the Judiciary should report that the backup centers have indeed been eliminated, then the Senator from North Carolina will be silent in seven languages thereafter.

I reiterate, Mr. President, that I simply want the Senate, and the President of the United States to know what is in this bill. We have had enough confusion, and we have had enough misunderstanding. There is considerable misapprehension about this measure.

With that prefacing statement, I ask unanimous consent that irrespective of the unanimous-consent agreement which was entered into yesterday, I be permitted to move that this bill be referred to the Committee on the Judiciary for a period of 1 week.

Mr. JAVITS. Mr. President, I object.

The PRESIDING OFFICER (Mr. MCCLURE). Objection is heard.

Mr. HELMS. Mr. President, I anticipated that my distinguished friend, the Senator from New York (Mr. JAVITS) would object. But I thought it well worth the effort to demonstrate just what the situation is, and I thank the Senator from New York for helping me prove my point.

Now, Mr. President, I move to concur in the House amendment, but with an amendment of my own which is at the desk, and which I ask be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 5, line 22 of the House amendment, or at the appropriate place, strike all through line 27.

On page 9, line 38, or at the appropriate place, strike the word "50 percent or more of its", substituting therefor the word "any"; strike the semicolon at the end of line 40, or at the appropriate place, and substitute therefor the words "or in the collective interests of the poor, or both;".

Mr. HELMS. Mr. President, I ask unanimous consent that the distinguished occupant of the chair (Mr. MCCLURE) be added as a cosponsor.

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

Mr. HELMS. Mr. President, my amendment is very simple. The first part of it, obviously, would merely strike the langauge which authorizes direct funding of so-called backup center activities in the Corporation. The second part modifies the probation on funding certain public interest law firms to include all public interest law firms and to include firms which litigate in the collective interests of the poor.

The purpose of this amendment is to clear up an ambiguity which exists in the public mind, and no doubt in the minds of many of our colleagues. I know that I have talked to quite a number of the Members of both bodies who were under a misapprehension on this point. I have no doubt that the same misapprehension extends to the executive branch and to the White House itself. And that misapprehension is that the

language of the House amendment removes the authority for backup centers.

Now the managers and proponents of this bill have been very straightforward in admitting that it is not so that the backup centers have been removed. The distinguished Senator from Wisconsin, the distinguished Senator from New York, and the distinguished Senator from Ohio have said several times on this floor that we are talking only about removing the contract and grant authority for backup centers. For instance, the distinguished Senator from Ohio said last Thursday:

> So far as the backup centers are concerned, one thing ought to be said that is perfectly clear, and that is that the House language that is expected to be adopted still permits a full degree of research and backgrounding by the corporation itself. It merely prevents the contracting out of that service to other institutions, and I think that is very proper.

When action was taken in the House on Tuesday, the manager of the bill, Representative PERKINS, explained the motion as follows:

> The change in the conference bill relates to who will perform the technical assistance, clearinghouse information, training and research activities that are essential to the proper representation of indigent clients. Under the bill, these functions will be carried out through the Corporation rather than through grant or contract . . .
>
> The research, technical assistance, training, and clearinghouse functions will be transferred to the Corporation. We expect the Corporation to do its best to make sure that these activities continue as effectively as possible. . . . Existing contracts and grants will, of course, continue to be honored through their expiration date. . . .
>
> Once the Corporation takes over these back-up functions, it will have to determine how they can best be provided. This bill does not restrict the Corporation's flexibility in this area. The Corporation may provide all of these services through its central office in Washington, or it can provide them through regional and other offices throughout the country.

Mr. President, those are the words of Representative PERKINS.

I continue to quote him:

> It can hire the necessary qualified personnel, and it may obtain consultation services from qualified individuals or groups when necessary. . . . In removing the authority of the Corporation to provide such services by grant or contract, the Congress merely changes the location of the function. We do not intend to minimize their importance.

Mr. President, I submit that that hardly qualifies as an elimination of the backup centers, as has been so widely advertised by the news media of this country.

So I think it is very clear that the House amendment changes nothing substantive. We will have pretty much the same people performing the same functions at virtually the same locations with the only change being that they will be paid directly by the Corporation as employees or consultants. In fact, it is an advantage for most of them since, although the Corporation while not a Federal agency by virtue of this peculiar legislation, its employees will be eligible for Federal employee benefits.

But even though the proponents of this bill have been straightforward in explaining that there is no substantial change, a misapprehension exists. Did this misapprehension not exist, I doubt very much that the Senate would have sent this matter to the House in anticipation of the House amendment. There has grown up a sort of shorthand explanation of the changes in the phrase "the backup centers will be eliminated." Because of the crush of Senate business at this particular season, many Senators have been occupied with hearings, conference committees, and other Senate business. They have not had the opportunity to be on the Senate floor to hear the often illuminating debate on this issue. As many of them have told me within the last 60 minutes, they were under the impression that the backup centers would be removed.

Moreover, the press seems to be under the same misapprehension. The headline in yesterday's Washington Post says "Backup Centers Out of Final Legal Bill." The story which follows reflects that headline. The lead paragraph says:

> Deleting authority for backup centers, the House approved a final compromise legal services bill by a 265-to-136 vote yesterday, bringing a three-year dispute to a verge of final settlement.

The Post continues by saying:

> The bill, which Senate sponsors said the President was committed to sign once the backup centers were out, was immediately sent back to the Senate for routine final approval.

We can see, Mr. President, that the misapprehension exists. Everybody is operating in good faith. The distinguished Senator from New York has been straightforward. He has said, in effect, that the backup centers have not been eliminated. Yet, I feel that the majority of the Members of this body confidently believe that the backup centers, as the Washington Post put it, have been deleted.

The article in the Washington Post was written by Mr. Spencer Rich, who is well-known to all of us here as an able and conscientious reporter who sits daily in the press gallery, covering complicated measures. Mr. Rich knows that I have a high regard for him as a highly competent practitioner of his craft. I have spent most of my life as a reporter and in various other forms of journalism, and I know the difficulties under which Mr. Rich and other reporters operate. Yet, even Mr. Spencer Rich seems to be under the same misapprehension as many of our colleagues with whom I have discussed the matter.

Immediately under the Post's story on the congressional action is another story about the resignation of the Director of the Office of Economic Opportunity, a story written by another well-known professional, Mr. Jules Witcover. This story includes the following paragraph, which I think is of great interest:

> A major target of conservatives has been the so-called legal services back-up centers, where the poor could go for legal aid. A compromise striking the provision for the centers for the legislation is being sought on Capitol Hill. In San Clemente, Warren—that is, White House Deputy Press Secretary Gerald Warren—Warren said that with their removal, "the chances of the President signing would be greatly enhanced."

Mr. President, the only thing that is clear is that confusion abounds. Despite the frankness of the distinguished managers of the bill, many Senators are confused, the press is confused, the public is confused, and I fear, even the White House is confused. The issue is highly technical. Mr. Witcover, for example, thanks that the backup centers are where the poor go for legal aid; but, in fact, the poor go to the neighborhood legal services projects for legal aid. This is one of the profound faults in the bill, as I have pointed out before; it creates another welfare bureaucracy where the poor are degraded by having to go stand in line, as it were, with a number for service. Although some backup centers do handle cases in some instances, the theory is that they "backup" the local projects.

The practice has been somewhat different. We know that the backup centers have been responsible for wholesale legal attacks on the very structure of our political, social, and legal system. It is quite clear, for example, that our antiabortion laws, a tradition inherent in the ethical and moral concepts of Western culture for centuries, and inherent in the separate legal system of our States, were struck down as a result of the coordinated strategy financed and supported by Federal funds through the backup centers. Although the right to kill unborn children was promoted allegedly in the name of the poor, it is the children of rich and poor alike who are being killed, and it was money wrung from the taxpayers of rich and poor alike that was used to bring about a morally offensive practice.

The same applies in many other areas. It was a backup center that did research and filed amicus briefs in the Detroit busing suits, which constitute an attack not only on the social structure of education and housing, but also an attack on the integrity of local jurisdictions and local government. Mr. President, I have to ask the question again: Why should the taxpayers of Detroit and its suburbs pay to sue themselves in court to bring about something that is morally offensive to them?

It was a backup center in California that sued to destroy the property tax as the basis of support for local education. It was a suit that was stopped only by the good sense of the California supreme court. The property tax has been an integral component of the social structure of education throughout the United States. It insures that local education will remain under local control, for we know that with State or Federal funding comes loss of local control and local support and interest. There are those who argue that other systems of educational support would be better; but such issues should be settled through the democratic process, and the taxpayer should not be forced to finance, through his taxes, the destruction of a political structure he supports.

Another issue, in which 22 backup cen-

ter lawyers participated, was the DeFunis case where they advocated quotas for acceptance of students at educational institutions. The concept of quotas is fundamentally undemocratic, and highly offensive to the vast majority of Americans. It carries with it a long history of prejudice and injustice. Yet, you and I and every taxpayer paid, through the legal services backup centers, to defend that indefensible concept.

All of this is far removed from the business of providing legal services to the poor. Those who believe in manipulation of our social structure through litigation always have the courts open to them; indeed, with the state of social disintegration which afflicts our Nation, the courts are often highly receptive to such approaches. But it can only be some kind of sickness, some kind of death wish for our society, that urges the speeding-up of the process of distintegration through Federal financing of the judicial onslaught. It is bad enough for misguided private philanthropy to finance antisocial litigation, but the taxpayers of the United States should not be required to commit ambush on themselves.

The backup centers are the vehicle for this antisocial agitation. They bring together and support teams of researchers, strategists, and organizers who otherwise would not be working together. These teams are able to develop issues, prepare briefs, train other lawyers and paraprofessionals in the intricacies of their chosen area, hold strategy conferences, publish clearinghouse materials, newsletters, magazines, and even books propagandizing for political issues, all at the taxpayer's expense. If these activities were purely to provide legal aid to individuals, their activity would be much restricted. But as a matter of fact, they have worked very closely with advocacy groups, often of an extremist and militant nature. The list includes the American Indian Movement, the National Welfare Rights Organization, the National Farm Workers Organizing Council, the National Lawyers Guild, and many others. I think it should be a basic principle of democratic government that advocacy should never be financed with taxpayer's funds.

Mr. President, I have a current list of the backup centers and I ask unanimous consent that this list be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. HELMS. Mr. President, if the Senators will take the time to look at this list in tomorrow's RECORD, at which time it will be too late, the first name on this list happens to be that of Mr. Alan Houseman, chairman of the Organization of Legal Services Backup Centers (OLSBUC). Everybody uses initials these days. Mr. Houseman, I am reliably informed, is a national officer of the National Lawyer's Guild, an organization known for its radical view of society and for its close affiliation with the Communist Party. I do not charge Mr. Houseman with being a Communist since I have no way of knowing that to be a fact. But it does indicate that Mr. Houseman occupies a part of the political spectrum that is abhorrent to the vast majority of the American people. I cite it merely because he is typical of the people whom the taxpayers are financing not only in the backup centers, but throughout the legal services program.

That is why those of us who have studied this program closely believe that the backup centers are a major factor in the program of social disorganization that has been pursued by the legal services program. If the backup centers are taken out—really taken out—we would still be left with a program of inherent instability because it is based on the staff attorney system. The staff attorney system is a root error that cannot be eliminated within the parameters of the bill that is before us. Band-aids can be put on; restrictions can be attempted; fiscal accounting procedures can be tightened, I suppose. The political unaccountability remains in this bill.

The backup centers can be removed, however, without endangering proper legal services to individual eligible clients. It is still a flaw that these "eligible clients" so-called, include groups and advocacy organizations. That is a basic injustice in the bill and an erroneous philosophy of governmental action. Removing the backup centers, hopefully, however, might tend to dampen the militancy of these destructive tendencies. It would not injure the efficiency of the local projects.

Mr. President, my amendment would delete the following authorization from the bill:

(3) to undertake directly and not by grant of contract, the following activities relating to the delivery of legal assistance—

(A) research,

(B) training and technical assistance, and

(C) to serve as a clearinghouse for information.

Deletion of this language would leave the local legal services projects in the same position as any other law firm. The corporation would have no specific authority to undertake research per se, but the local projects would still be able to undertake whatever research is necessary for the particular cases they are working on. That is the way any law firm works, the way any law firm provides quality legal service.

There is no reason why the Corporation should provide training and technical assistance to the local projects. The local projects should hire attorneys who are already trained, and have experience in the law. They should not hire attorneys who are just out of law school and would be mere clerks if they went into private practice.

There is absolutely no reason why the Federal Government should train attorneys at public expense, when the laws schools are jammed with applicants, and there are many fine attorneys available who have experience and do not need training. Of course, if the "training" envisioned in this bill goes into such activities as conducting strategy sessions to attack fundamental concepts of law, and the interchange of information about such attack strategies, then I think it is improper for Congress to authorize such activities.

Finally, the clearinghouse activities authorized in the bill should be deleted also, since there is virtually no way to curb the partisan abuses which historically have been associated with this concept. If this activity is deemed worthy of private philanthropy, it no doubt will continue; but there is no reason why the taxpayers should support activity which is biased against the prevailing social system.

I conclude, then, that the actual deletion of the backup centers—whether funded in-house or contracted out—would be a real improvement in a bill which is fundamentally unsound in philosophy. But the bill as it stands offers no change whatsoever. The location of the backup centers is irrelevant; it is the activity which is socially deplorable and should not be financed by public funds.

There is, however, one further problem. And that is that the deletion of this authority alone will not accomplish the removal of public funding of backup center activity. This activity includes the preparation of amicus briefs, cocounsel work with allied organizations, legal research for private advocacy groups, drafting model legislators, and proposed Executive orders governing agency activity, acting as "house counsel" for advocacy groups, lobbying upon request, publishing propaganda newspapers and books, and so forth. All of this has been justified under the rubric of "research," "clearinghouse activities," or providing "legal representation to eligible clients."

But the same activities can be carried on by so-called public interest law firms. In section 1007(b)(3), the Corporation is prohibited from funding any public interest law firm which "expends 50 percent or more of its resources and time litigating issues in the broad interests of a majority of the public."

This prohibition is represented to us as forbidding the funding of public interest law firms. But if read carefully, it does no such thing. The criterion of restraint refers only to resources spent on litigation. Nearly any one of these Naderesque operations could easily demonstrate that 51 percent or more of its resources are spent in activities other than litigation such as lobbying or publication. Therefore, almost any of them could be funded and perform essentially the same activities which are now performed by the backup centers.

Moreover, if we examine the legislative history, another possibility immediately appears. The original House-passed version, before it went to conference, contained another significant restriction.

It not only restricted grants to law firms that litigated in the broad interests of a majority of the public, but also those that litigated "in the collective interests of the poor, or both."

This brings out an important distinction between law firms that seek to serve the public interest and those that seek to serve a special interest, that is, the collective interests of the poor.

Ostensibly, a law firm could define itself as one serving the collective interests of the poor, occupy itself exclusively with class action cases and other activity devoted to the "collective interests of

the poor," and be fully funded. By implication, paragraph 1007(b)(3) permits such funding.

It is plain that this so-called restriction is mere ornament that can easily be gotten around when you have 2,000 or 3,000 legal services lawyers paid by public funds, who will find it in their own interest to get around it.

So, if the Congress is really interested in "removing the backup centers," this language must be tightened up. My amendment would prohibit the Corporation, and I quote:

(3) to make grants to or enter into contracts with any private law firm which expends any of its resources and time litigating projects in the broad interests of a majority of the public, or in the collective interests of the poor, or both.

This is a very tight prohibition. A corporation which is set up to deliver legal services to the poor has no business funding any activity which is conducted in the name of the general public. And if the services are to be delivered to the poor, it should be to poor individuals, and not to some vaguely defined "collective interest."

We must remember that the term "backup center" does not appear in the bill and is never defined. We are dealing only with broad grants of authority for funding activities. If these activities are not appropriate for public funding, it makes no difference whether the funding is direct through the corporation, or indirect through grants and contracts. And we must make sure that there are no inadvertent loopholes through which the same unsalutary activities might be squeezed by some future executives in the Legal Services Corporation.

Mr. President, the adoption of my amendment will be a clear signal to the Members of this body, to the House of Representatives, to the press and public, and to the White House that the backup centers have been removed. If it is not adopted, many people will be misled into thinking that backup center activity will cease.

Since the only public statement we have from the White House is that the possibility of signing the bill would be "enhanced"—and I repeat Mr. Warren's word "enhanced"—if the backup centers are removed I believe that there still is confusion among the White House staff. We have been informed on the highest authority, as the distinguished Senator from Nebraska (Mr. CURTIS) said on this floor the other day, that the President still had an open mind about whether he would veto the bill. I personally do not think the President will sign this bill if the backup center activity is not removed.

I also believe that the House would uphold a veto, if it should be forthcoming. On Tuesday, more than one-third of the House Members present and voting rejected the move to authorize direct funding of backup centers. And I am sure that many who did support the motion were under the misapprehension I have pointed out.

So let us be sure that no misunderstanding can exist. Let us really delete the backup centers. Let us enhance the probability that this bill will be signed into law by the President, if passed. I urge my colleagues to support my amendment.

EXHIBIT 1

BACK-UP CENTERS

There is an Organization of Legal Services Back-Up Centers (OLSBUC) which keeps track of developments, address changes, programs, and can sort out the differences among national back-up centers, private back-up center, and technical assistance centers. This year's chairman of OLSBUC is Alan Houseman at Michigan Legal Services, Wayne State University, Law School Annex, Detroit, Michigan 48202. Phone 313-577-4822.

NATIONAL BACK-UP CENTERS

1. Center on Social Welfare Policy & Law, 25 West 43rd Street, 12th Floor, New York, New York 10036, (212) 354-7670.

Concentrates on cash assistance programs related to need, with some resources devoted to food assistance, Medicaid, and social security matters.

2. Harvard Center for Law & Education, 14 Appian Way, Larsen Hall, 5th Floor, Cambridge, Massachusetts 02138, (617) 495-4666.

Litigates, researches, and monitors pupil classification and grouping practices, including in some instances exclusionary devices which disproportionatey affect poor children; elimination and prevention of racial and other other invidious discrimination, issues associated with federal educational programs, such as Titles I and VII of ESEA, Title VI of the Civil Rights Act, day care and affirmative action; allocation of educational dollars and other resources within and among districts; the constitutional and statutory rights of students; alternative schools and Indian education issues.

3. Legal Action Support Project, Bureau of Social Science Research, 1990 M Street, NW, Washington, D.C. 20036 (202) 223-4300.

Provides social science research services on how the law adversely affects or aids the poor. Extensive data, analysis, and an abundance of social science experts are available. Litigation efforts are related to the Project's broad range of specialties.

4. Migrant Legal Action Program, 1910 K Street, NW, Washington, D.C. 20006, (202) 785-2475.

Specializes in the various aspects of farm labor law and civil rights of migrants. Areas of concern include Occupational Safety and Health, wage problems, Wagner-Peyser, offshore labor, immigration, the Sugar Act, food stamps, welfare, social security, and education. Given the special problems of migrants, the Program provides expertise on the specialties of the specialties. MLAP is unique in that it also maintains field offices. Most back-up centers publish their own newsletters. This one publishes this one.

5. National Consumer Law Center, One Court Street, Boston, Massachusetts 02108, (617) 523-8010.

Seeks to identify the major problems of low-income consumers and has been involved in attacks on the constitutionality of confessed judgments, prejudgment replevin, self-help repossession, and the termination of service by public utilities.

6. National Employment Law Project, 423 West 118th Street, New York, New York 10027 (212) 866-8591.

Deals with employment discrimination, unemployment insurance, labor relations, manpower programs, minimum wage provisions, compulsory work programs for welfare recipients, and employment rights generally.

7. National Health Law Program, University of California Law School Extension, 10995 Le Conte Avenue, Room 630, Los Angeles, California 90024, (213) 825-7601.

Studies health laws and how the poor are given or denied coverage. Areas of inquiry include accessibility of quality health care under Hill-Burton, tax exempt status of non-profit hospitals without a requirement that charitable medical care be provided, the scope of services under Medicaid and Medicare, mental health, alcoholism and drug abuse programs, Occupational Safety and Health, Indian health, family planning and abortion, medical ethics, and comprehensive health planning.

8. National Housing & Economic Development Law Project, Earl Warren Legal Institute, University of California, Berkeley, California 94720, (415) 642-2826.

Provide assistance in housing law and community-based development. Housing law falls within landlord-tenant law, federal planning and redevelopment programs (public housing), housing production (rehabilitation and related contracting), and employment.

9. National Juvenile Law Center, St. Louis University School of Law, 3642 Lindell Boulevard, St. Louis, Missouri 63108, (314) 533-8866.

Works on the right to counsel in juvenile court, improving conditions in juvenile institutions, reforming standards and practices in juvenile court proceedings, and strengthening procedure for the transfer of children from juvenile court to be tried as adults in criminal court.

10. National Resource Center on Correctional Law & Legal Services, 1705 DeSales Street, NW, Washington, D.C. 20036 (202) 293-1712.

While not engaged in litigation, provides assistance on prison reform litigation and compiles studies on the rights of prisoners.

11. National Senior Citizens Law Center, 1709 West 8th Street, Los Angeles, California 90017, (213) 483-3990.

A national resource (with branch offices in Sacramento, California, Washington, D.C., and San Francisco) provides information and assistance with respect to the legal problems of the low-income elderly.

12. Indian Law Back-up Center, Native American Rights Fund, 1506 Broadway, Boulder, Colorado 80302, (303) 447-8760.

Responds with materials, advice, research, and formal participation as counsel in cases in which legal services attorneys who serve Indians desire assistance.

TECHNICAL PROJECTS

1. Legal Services Training Program, Columbus School of Law, Catholic University of America, Washington, D.C., 20017, (202) 832-3900.

Provides continuing and specialized education to legal services lawyers and gives special training to new lawyers and project directors.

BACK-UP CENTERS

2. National Clearinghouse for Legal Services, 500 North Michigan Avenue, Suite 2220, Chicago, Illinois 60611, (312) 943-2866.

Serves as a national communications network and information exchange for legal services attorneys. Publishes the Clearinghouse Review and maintains a library with document reprint services.

3. National Paralegal Institute 2000 P Street, NW, Suite 600 Washington, D.C. 20036 (202) 872-0655.

Trains paralegals, produces materials, gives advice, and generally encourages folks to become paralegals.

4. Technical Assistance Project National Legal Aid Defender Association, 1601 Connecticut Avenue, NW, Suite 777, Washington, D.C. 20009 (202) 462-4254.

Provides substantive fact finding and administrative technical assistance to legal services programs.

Mr. JAVITS. Mr. President, will the Senator from Wisconsin yield me 10 minutes?

Mr. NELSON. I yield 10 minutes to the Senator from New York.

Mr. JAVITS. Mr. President, I have listened to the argument made for this amendment with great interest. What it comes down to, Mr. President, as I see

it, is this: Our colleague from North Carolina (Mr. HELMS) is going to tell the White House that it is confused. He is going to tell us that we are confused or misapprehending.

I think that is a pretty sophisticated aggregation: That the Senators are confused and do not understand what they are doing, that the House did not understand what it was doing, and that the White House does not understand what it is doing, but that all of us labored under an assumption, as defined by our colleague (Mr. HELMS), that we were going to eliminate backup centers while we were allowing them.

Fortunately, Mr. President, the words in the law are very specific, and hence I do not think that we need to depend upon the fact that a strawman is erected simply for the sake of knocking him down.

The fact is that it was made very clear time and time again that we were talking about centers which were called backup centers because it was a word of art. They were financed by grant or contract. They were, generally speaking, located on university or law school premises, and they had the specialized function of writing briefs, and so forth, respecting individual legal cases which might involve constitutional or other broadly generic law.

The fact is that the specific grant or contract authority for backup centers, which was the specific activity complained about—whatever may be the merits of the argument that those who engaged in it engaged in it for the purpose of or with the effect of propagating their social views—are not provided for in the bill as it now comes to us from the House of Representatives. That is what was stipulated for, and that is what we stipulated for.

My colleague says—and I think I noted his words exactly—"We will have the very same people serving the very same functions at the very same places."

Mr. President, I do not think that is justified by what we are bringing here at all. The fact is that the authority to fund these backup centers, to wit, the same people serving the same functions at the very same places are being taken out of the bill. What is being left in the bill is the normal legal firm function of in-house research training and the technical assistance and other facilities, including clearinghouse facilities which go with it.

I have headed a law firm myself for a long time, although I am no longer in it now; I was a practicing lawyer for many, many years, both individually and heading law firms.

One might just as well cut off his right arm as to be told that he cannot have research—persons who are specialists in research, working in his library and working on his briefs. That is simply one facet of the law which we simply cannot avoid.

If we want to have a law firm worthy of the name we simply have to perform that function.

Now, the objection taken by the White House, we understood very clearly, was they did not like the setup we had to furnish that type of service because they thought it created a class of people and the centers for social ideas and professional activity with heavy social implications which the President did not like.

So, the authority for these centers is being eliminated. But no one, as far as I know, had the remotest doubt about the fact that if we want to render law services to the poor we cannot render them one-half or one-quarter or two-thirds or five-eighths of the service to which they are entitled by not having service based upon research, training, and technical activities, which every appropriate law firm must have and which every legal representation must have.

So, Mr. President, the way in which the back-up activity are carried on—the type of center chosen—is what the White House stipulated be omitted from the bill, and it is being omitted.

The fact that research has to be done to back up any law firm's operations in its own establishment or through lawyers whom it hires and pays, is absolutely undeniable, and we might as well forget about giving legal services to the poor—except second class legal services—if we are going to eliminate completely the function of research and the other functions contained in the compromise section, based on the House bill.

So, Mr. President, I really do not believe there can be any misunderstanding or that there has been, but the Senate voted 75 to 18, and the House voted 265 to 136 exactly on that proposition.

Finally, Mr. President, this has been a long, hard, and very difficult progress which we have made in respect of the Legal Services bill. It is well known, whatever may ultimately be the fate of the OEO, that it is highly desirable that proven activities of great benefit to the poor and on a cost/benefit ratio of great advantage to the national interest should be preserved and carried on.

We have all agreed, the great majority, including the President, that the way to carry them on is through a Legal Services Corporation, essentially a corporation which will be an instrument of the bar, and that is what this is.

Every conceivable concession—many which I have reluctantly agreed to—has been made to the President's view.

In many respects this bill on lobbying, on political activity, on the personal time spent by individual attorneys goes further than anything the President has at any time asked for.

Mr. President, this is the final act. The only result of adopting Senator HELMS' amendment will be to throw the legal services proposition back to the House to destroy the understanding which we have arrived at, which will, after so many years, finally result in a Legal Services Corporation; it does only mischief, and all it does is to upset the applecart. We all know that, we are under no misapprehension as to that. This will again be in a tangle, in a turmoil, and the chances are it will never get done. It is very, very hard to put a structure together again constructed with such great difficulty and with such great delicacy as this one.

We have approved, the House has approved, it is back here for the final approval; from here it goes to the President. When we defeat the Helms amendment—which I deeply believe in the highest interests of this proposition—we should immediately vote on the motion which completes legislative action and sends the bill to the President. This will be a day long, long wished for not only by the poor and by many other people who are anxious to help the poor in this country, but by the organized bar which heavily and substantially supports exactly what we are doing. They are no wild-eyed radicals, Mr. President. But to cut off the right arm of the service which we want to give to the poor by eliminating the research, training, technical assistance, and other functions completely—and that is what we are talking about—simply makes no sense at all and just cheats the poor instead of helping them.

For all of those reasons, Mr. President, I hope the Senate will again vote, as it did just the other day, to go through with the proposition which we brought to the Senate, and of which the final act is here today, by rejecting the Helms amendment and approving by rollcall vote the motion made by Senator NELSON, of Wisconsin.

Mr. NELSON. Mr. President, how much time is left on this amendment or is there a time limitation?

The PRESIDING OFFICER. There are 23 minutes remaining on the motion of the Senator from North Carolina, and there are 15 minutes remaining on the motion to concur generally to the House amendment.

Mr. JAVITS. Mr. President, the opposition to the Helms amendment has time. How much time remains in the opposition to the Helms amendment?

The PRESIDING OFFICER. Twenty-three minutes, that is how much time remains to the opposition to the Helms amendment.

Mr. NELSON. Mr. President, the amendment proposed by——

The PRESIDING OFFICER. Will the Senator withhold to receive a message from the House of Representatives?

The Senator from Wisconsin is recognized. How much time does the Senator from Wisconsin yield himself?

Mr. NELSON. Mr. President, I yield myself 3 minutes.

The amendment proposed by the Senator from North Carolina (Mr. HELMS) would deprive the Legal Services Corporation of all authority to undertake research, training, and technical assistance, and clearinghouse information activities relating to the delivery of legal assistance under this legislation.

Let me remind the Senate that the administration's own proposal authorized the Corporation to carry out such backup activities, "either directly or by grant or contract"—exactly as did the Senate-passed bill and the original conference agreement.

The House of Representatives when it passed its bill deleted the authority to make arrangements for backup centers by grant or contract. While we felt that the administration's original proposal was better because it gave the Corporation's board of directors—appointed by

the President and confirmed by the Senate—the flexibility to utilize contracts for backup centers if it wished, we have now compromised on that issue. We have acceded to the strongly felt view of many Members of the House—only recently adopted by the administration—that grants and contracts for backup centers should not be permitted.

The language in the revised conference agreement is now exactly that proposed by Congresswoman EDITH GREEN and adopted on the floor of the House. Unlike the amendmnt of the Senator from North Carolina (Mr. HELMS), the Green amendment did not deny the Corporation the authority to undertake backup activities directly.

I see no reason to go further than the revised conference agreement which is acceptable to the administration and has passed the House by a vote of 265 to 136.

While contracts for university based centers are now prohibited under the revised conference agreement, the personnel of the Corporation itself should still be able to conduct research, provide training programs, and technical assistance. Surely, it is more efficient and economical for the Corporation to make its personnel available for research on legal problems of the poor which may involve legal questions applicable to various parts of the Nation. The Helms amendment would deny the Corporation the authority to provide training to prepare legal services attorneys to serve in regular legal services programs. Furthermore, the Helms amendment would eliminate any authority for the Corporation itself to serve as a clearinghouse for information.

The second part of the Helms amendment—to section 1007(b)(3) of the conference agreement—prohibits grants and contracts with any private law firm which expends "any" of its resources and time—rather than 50 percent or more as the conference agreement provides—litigating issues in the broad interests of a majority of the public or—the Helms amendment would add—"in the collective interests of the poor, or both."

The conferees did not think we should deny the Corporation the discretionary authority to make grants and contracts with any law firm simply because it devotes time and resources to litigation in the collective interests of the poor. The purpose of the program is to provide economical and efficient legal services for the poor. A lawsuit to enforce a congressional statute to provide food for the poor may well involve litigation in the collective interests of the poor. There is nothing in this legislation which requires the Corporation to fund any law firm or any particular program. We should give the presidentially appointed board the flexibility to establish policies as to the kinds of law firms it wishes to make grants and contracts to.

Mr. President, I yield 5 minutes to the Senator from Ohio (Mr. TAFT).

Mr. TAFT. I thank the distinguished Senator for yielding.

I am not going to belabor the Senate with any prolonged discussion or tirade on the motion of the Senator from North Carolina. It is said that, an accusation has been made that, an attempt has been made to confuse somehow the Senate and House and the public generally.

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

Mr. TAFT. Not on my time, Senator. The Senator has already used his time.

Mr. HELMS. I made no such accusation, I would say to the distinguished Senator.

Mr. TAFT. The implications, I think, were fairly clear, that a confusion was attempted to be foisted upon somebody with regard to this issue, and that certainly is not the case. I want to clarify that.

What we have here this morning, it seems to me, and I am trying to think of how to classify it, and I came first to the conclusion that it was cold hash which we had been over before. Then I came to the conclusion it was a little red herring thrown in. But, in deference to my good friend from North Carolina (Mr. HELMS), I have combined those two. I am taking out the word "red" with reference to anything that he said, and just called it the cold herring act.

Mr. President, the thing that I think is important to go into the RECORD at this time, really the only reason why I mention it, is that in discussions with the White House on this issue the very point the Senator is raising was raised specifically by me. The point was raised, the language would remain in in exactly the form in which the House amendment was put through, that specifically all that was being deleted was the contracting out of the grant authority.

I pointed out very specifically the commitments that have been made with regard to the bill, with regard to the change in the bill related to leaving in the language which the Senator would now with his language seek to try to delete from the bill.

I think that would be contrary to the commitments that have been made, and contrary, certainly, to what the Senate and the House already indicated, and it would be contrary to the understanding with the executive branch in this regard.

Finally, Mr. President, the other point I would like to make is that with all these dire dangers that have been pointed out, let us not take our eyes off the main point. What we are discussing here is the legal services program, which has been in an agency very indirectly controlled through the White House, without responsibility, as many of us thought, and under a legal services corporation, with direct responsibiilty back to Congress.

I would like to point out that the Members of this body, the people who will be directing the legal services research involved through the corporation are going to be who? They are going to be the board of the legal services corporation. And how are they appointed? They are appointed by the President, completely by the President.

A compromise was made in this bill from the bill previously considered by previous sessions of Congress. Those appointments are subject to confirmation by the Senate. If we do not like the people on that board it is our own fault. We have every right to act and to turn them down.

This idea that the administration is going to be thwarted by its own employees seems to me to be obviously pure baloney and not entitled to serious consideration.

So, really, we have no new issue before the Senate. This is another attempt to confuse and delay in a matter which Congress overwhelmingly on both sides expressed agreement and to which the executive branch has given approval, as well.

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

Mr. HELMS. Mr. President, will the Senator withhold his request?

Mr. NELSON. Mr. President, I withdraw my request.

Mr. HELMS. Mr. President, I ask for the yeas and nays on my motion.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

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

The PRESIDING OFFICER. On whose time?

Mr. NELSON. Mr. President, I ask that the time for the quorum be charged to both sides.

Mr. HELMS. Mr. President, the Senator from Wisconsin has 15 minutes.

Mr. NELSON. Mr. President, I ask that the time be charged against me.

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. 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. HELMS. Mr. President, I ask for the yeas and nays on my motion.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. NELSON. Mr. President, I ask for the yeas and nays on the motion to concur.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield for a question?

Mr. NELSON. I yield.

Mr. ROBERT C. BYRD. Mr. President, under the agreement of yesterday, the vote on the Senator's motion is to occur today not later than 2 p.m. Could we firm that up and have an hour, say at 2 p.m., so that all Senators would be on notice?

Mr. HELMS. I have no objection at all.

Mr. NELSON. Mr. President, if the Senator will yield, may I raise a point? I do not believe our side needs that much more time. We would be willing to vote earlier than 2 p.m. so that the Senate could get to subsequent business, if that is agreeable to the Senator from North Carolina.

Mr. HELMS. It is agreeable, but the Senator from Idaho did request time

from the time remaining on our side on the motion.

Mr. McCLURE. Mr. President, will the Senator yield on that point?

Mr. HELMS. I yield.

Mr. McCLURE. All I need is 3 or 4 minutes. It certainly will not prolong the discussion.

Mr. HELMS. Mr. President, I yield to the Senator from Idaho.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. McCLURE. Mr. President, I thank the Senator for yielding.

Mr. President, again I wish to publicly commend the Senator from North Carolina (Mr. HELMS) for the tremendous amount of detail work he has put into the matter of the analysis of the bill and in the struggle over what the bill should have in it.

I have requested some time because I think it is important that we again put into perspective what we tried to put into perspective the other day in regard to White House assurances, so-called.

The Senate heard again today some assurances with respect to the agreements that have been worked out. I think that is precisely the point the Senator from North Carolina has been trying to make.

Does the Senator from West Virginia wish some time at this point?

Mr. ROBERT C. BYRD. Mr. President, I would ask if the gentleman would yield, with the understanding that he not lose his right to the floor.

Mr. President, I ask unanimous consent that with the vote on the House amendment, as amended, if amended, to occur immediately after the vote on the motion by Mr. HELMS, that the vote on the motion by Mr. HELMS occur at the hour of 2 o'clock p.m. today.

The PRESIDING OFFICER. Is there objection? If not, it is so ordered.

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

Mr. McCLURE. Mr. President, I think it is important for us in the context of the assurances that have been given to the Senate today that something has been worked out with the White House, to again affirm what was said, as the Senator from North Carolina has tried to point out, that those assurances, whatever they may have been and from whomever they may come, were based upon an understanding of what is in the bill. We have focused primarily on one question here today, and that is the issue of what kind of backup services or backup centers shall be applied.

There is much else in this bill that is equally faulty. There are many other assurances given by the bill that are equally as invalid as the assurance here. There are many instances in the bill in which the language of the bill seeks to give assurances and then the final sentence in the paragraph takes away all the assurances that were given before. So, in essence, what we have is a very good selling job that the bill does something which people on the side of it that I am on have been told has been accomplished but, as a matter of fact, has not been accomplished.

Mr. President, I am talking about the backup services or backup centers. That is only one example of a multitude of such examples in the bill. I want to reaffirm again that whatever assurances have emanated from the White House come from two sources: One, from those who believe in the broad concepts of the bill but do not understand the specific implications of the language; and from those who, as the Senator from New York and the Senator from Ohio undoubtedly believe, want relatively unrestricted, totally autonomous legal services activities.

Mr. President, I have talked to some who object that legal services under OEO has been out of control. So they seek to solve the problem within OEO by removing legal services from OEO to a completely autonomous organization where it is totally out of control.

Is that the way to put controls on something that has been troublesome? I submit that this bill and the action taken increases the danger, increases the difficulty, and renders this legal services program far less subject to control than it has been under OEO, where we found that it was totally out of control.

To those who desire that result, I say vote "yes," vote for the bill, vote against the Helms amendment, vote for the agreement that has been worked out. But if you believe that these matters have been troublesome to the extreme in the past, then a vote for this legislation is only a vote to confirm all of the difficulties we have had before, to shove aside all the criticisms that have preceded this date, to affirm the kinds of actions that have been taken by some of the radicals who have been involved and who will continue to be involved.

The Senator from New York says it has been endorsed by bar associations and people within the bar associations, and that they are not a bunch of radicals.

Well, a bar association is like any other association. As a matter of fact, it is not too dissimilar to the Senate of the United States in some respects, at least in that there is a great breadth of opinion within that association as to what is appropriate and what is not.

Sometimes a small group seeks to speak for the entire group. The Senator from North Carolina again has delineated, has pointed out, has sharpened the focus on the one specific problem of many such problems in the bill.

I want to join with the Senator in the effort and to urge my colleagues in the Senate to vote for the Helms amendment, which will again present the issue very squarely, as to whether or not we want to control the kind of activities that will be taken by these people who ostensibly speak for the poor—that is the guise in which they operate—but seek to radicalize our society under the guise of acting for the poor and the disadvantaged.

I thank the Senator from North Carolina for yielding the time. I hope the Senate will support him, as I believe they should.

Mr. HELMS. I thank the able Senator from Idaho.

Mr. President, what is the time situation?

The PRESIDING OFFICER. The Senator from North Carolina has 8 minutes remaining on the motion to concur with the House amendment.

Mr. HELMS. I thank the Chair.

I want to clear up one item with my distinguished friend from Ohio (Mr. TAFT). Earlier in my remarks, and I think prior to the arrival on the floor of the distinguished Senator, I paid tribute to him for his forthrightness. I do not know how he got the impression that I was saying he was deliberately trying to confuse the issue. If anybody has ever made himself perfectly clear on this, the Senator did so earlier last week. I quoted verbatim what he said on this floor at that time. He acknowledges that the backup center concept is being retained in this legislation. He has done so again today. The Senator from Ohio has been, as always, impeccably honest and straightforward, and I commend him. I differ with him on this legislation but I commend his forthrightness.

But the relevant question persists. Many other Senators are under the false impression that the backup center concept has been eliminated from this bill. The Senator from North Carolina and the Senator from Idaho, and others, are trying to make the Senate aware of the true circumstances. We simply want all Senators to understand precisely what it is they are voting on.

I thank the distinguished Senator from Ohio, my good friend, for his candor. He, too, has helped prove my point.

Mr. NELSON. Mr. President, I wish to present a statement which details background on the issue.

Mr. President, this legislation is the culmination of 3 years of consideration by the Congress and by the administration of legislation to transfer the program of legal services for the poor from the Office of Economic Opportunity to a federally chartered Legal Services Corporation.

The conference agreement on the establishment of the Legal Services Corporation was unanimously reported from the conference committee in a conference report signed by all the conferees of the Senate and of the House of Representatives.

This revised conference agreement reconciles the differences—which were largely differences of detail and specific language rather than basic framework or principle—between the Senate and House-passed versions of the bill submitted by the administration. The President requested the legislation in a message submitted on May 15, 1973, which was printed in the Senate committee report on this legislation (S. Rept. No. 93-495).

The bill meets in every essential respect the recommendations of the President in submitting the legal services legislation last year.

The original recommendation to establish a Legal Services Corporation was made in January of 1971 by the President's Commission on Executive Organization headed by Roy Ash, the current Director of the Office of Management and Budget. Both Houses of Congress moved promptly to accept that recommendation. But the efforts to establish a Legal Services Corporation in 1971 and

1972 both floundered over differences concerning the method of appointing the board of directors of the Corporation.

APPOINTMENT OF BOARD DIRECTORS

In vetoing the Economic Opportunity Amendments of 1971, the President objected to the Legal Services Corporation title of that legislation on the grounds that, while that bill provided for the President to appoint all members of the board of directors, 11 of the 17 were to be individuals selected from lists of recommendations from legal professional and client groups and from former legal services attorneys.

In 1972, the House and Senate again passed legislation to establish a Legal Services Corporation. The final bill provided for Presidential appointment, without any restriction, of a majority of members of the board of directors, but the administration still objected that, while the President could appoint whomever he wished, the bill provided that 9 of the 19 members of the board be generally representative of the organized bar and the legal profession as well as clients and former legal services project attorneys. In order to avoid a veto of the Economic Opportunity Amendments of 1972, the conferees on that legislation ended up deleting the legal services title.

In acting upon the pending legislation, both Houses of Congress accepted, without change, the President's recommendation on the method of appointing members to the Corporation's board of directors. The pending legal services legislation contains exactly the same provisions as the administration's bill regarding the appointment of members to the board of directors: All members of the board are appointed by the President, with the advice and consent of the Senate. The only requirements—which are exactly the same as those set forth in the administration's proposal—are that no more than 6 of the 11 members of the board shall be of the same political party, that a majority shall be members of the bar, and that none shall be a full-time employee of the United States.

OTHER PROVISIONS TAKEN FROM ADMINISTRATION'S BILL

The pending legal services bill provides for State advisory councils to be appointed by the Governor of each State. This proposal was contained in the administration bill and is retained in the conference agreement. The State advisory councils are charged with notifying the Corporation of apparent violations of the legislation's restrictions on the conduct of legal services personnel.

The administration bill contained a provision that State and local governments be eligible to carry out legal services programs if those programs are approved by the board of directors. The conference agreement similarly provides the authority to make grants and contracts with State and local governments when the board determines that more effective assistance will be provided through such arrangements.

The administration's bill also provided that the Legal Services Corporation conduct a comprehensive study of alternative methods for the delivery of legal services, including judicare. The conference agreement retains the provision for such a study and requires a report to the President and the Congress within 2 years.

The administration proposal would have prohibited the Legal Services Corporation from making grants or contracts with public interest law firms. The conference agreement likewise contains such a prohibition. A public interest law firm is defined as a private law firm which expends 50 percent or more of its resources or time litigating issues in the broad interests of a majority of the public.

The administration bill prohibited participation by the Corporation or by any program or any legal services project attorney in political activities of any kind. The conference agreement likewise contains an absolute prohibition on any such participation, whether during working hours or not, in political activity, whether partisan or nonpartisan.

The administration proposal prohibited the Corporation and individual programs from advocating or opposing ballot measures, initiatives, or referendums. The conference agreement similarly prohibits all legal services programs and personnel from advocating or opposing such ballot measures.

The administration proposal prohibited legal assistance with regard to a criminal proceeding. The conference agreement likewise prohibits legal assistance in criminal proceedings.

The administration proposal prohibited legal assistance to organize or plan for any organization or group, except as authorized by the Corporation. The conference agreement contains the same prohibition.

The administration bill provides that the Corporation shall establish guidelines for a system for review of appeals to be implemented by each program to insure the efficient utilization of resources and to prevent the taking of frivolous appeals. The conference agreement contains a similar provision.

The administration bill prohibited the support or conduct of training programs for the purpose of advocating particular public policies or encouraging political activities, labor or antilabor activities, boycotts, picketing, strikes, and demonstrations. The conference agreement contains a similar prohibition.

The administration bill provided that the Corporation insure that its employees and legal services project attorneys refrain from participating or encouraging others to participate in any rioting, civil disturbance, picketing, boycott, or strike. The conference agreement provides that at no time shall any legal services employee engage in or encourage others to engage in any rioting or civil disturbance, any violation of a court injunction, any other illegal activity, or any intentional identification of a legal services program with any political activity. The conference agreement further provides that, while carrying out legal assistance activities, no legal services employee shall engage in or encourage others to engage in any public demonstration or picketing, boycott, or strike, except for lawful employment-related labor activities in connection with the employee's own employment situation.

The administration bill prohibited full-time legal services attorneys from engaging in any outside practice of law. The conference agreement prohibits full-time legal services attorneys from engaging in any compensated outside practice of law, or any uncompensated outside practice of law except as authorized in guidelines issued by the Corporation.

With respect to representation before State and Federal legislative bodies, the administration's bill required the Corporation to insure that no funds made available to legal services projects by the Corporation be used at any time, directly or indirectly, to undertake to influence the passage or defeat of any legislation by the Congress or by State or local legislative bodies, except when formally requested to do so by a legislative body, a committee, or a member thereof. The conference agreement contains the same restrictions, but provides for an exception where representation by an attorney as an attorney for any eligible client is necessary to the provision of legal advice and representation with respect to such client's legal rights and responsibilities. The conference agreement contains restrictive language making clear that such an exception shall not be construed to permit legal services attorneys to solicit a client for the purpose of making such representation possible, nor does it permit soliciting a group with respect to matters of general concern to a broad class of persons as distinguished from acting on behalf of any particular client. The conference agreement therefore retains a strong prohibition on lobbying legislative bodies.

RESTRICTIONS ADDED BY CONGRESS

There are a substantial number of provisions in the conference agreement which are more restrictive than the Administration's own proposal.

The conference agreement retains the House-passed provision requiring legal services projects to solicit the recommendations of the organized bar in the community being served before filling project attorney positions and to give preference in filling such positions to qualified persons who reside in the community to be served. There was no such local preference in the administration's own proposal. So the conference reported bill is more restrictive in that respect.

The conference agreement provides that a defendant who wins a case brought by a legal services attorney may recover costs and attorney's fees if the court finds that the lawsuit was brought solely for the purpose of harassing the defendant or that the legal services attorney maliciously abused legal process. That provision is based upon an amendment adopted in the House. The administration's own proposal did not contain such a provision for a defendant to recover costs and fees from the Legal Services Corporation.

The conference agreement prohibits legal services lawyers from providing legal assistance with respect to any proceeding or litigation relating to the desegregation of any elementary or sec-

ondary school or school system. That provision was adopted on the floor of the House. It is a restriction which was not contained in the administration's own proposal.

The conference agreement also prohibits legal assistance with respect to any proceeding or litigation seeking to require an institution or individual to provide a nontherapeutic abortion, contrary to the religious beliefs or moral convictions of such individual or institution. That prohibition is another restriction that was not contained in the legislation submitted by the administration.

The conference agreement prohibits legal assistance with respect to any proceeding or litigation arising out of a violation of the Military Selective Service Act or of desertion from the Armed Forces. That prohibition was adopted by the Senate and the House, but it was not in the administration's bill.

The conference agreement provides that no class action suit, class action appeal, or amicus curiae class action may be undertaken, directly or through others, by legal services project attorneys, except with the express approval of the project director in accordance with policies established by the governing body of the project, a majority of which consists of local lawyers. That amendment was proposed by the Senator from Nebraska (Mr. CURTIS) and accepted in the Senate. The conference-reported bill retains that amendment, a restriction on class actions that was not proposed in the administration's own bill.

The conference agreement also restricts providing legal assistance with respect to any fee-generating case except in accordance with guidelines issued by the Corporation. This provision was added by the House to prevent competition with private lawyers for contingency fee cases. Once again, this is a restriction which was not proposed in the administration's bill.

The conference agreement also prohibits the use of nonpublic and nontribal funds received by legal services projects for any purpose prohibited by the Legal Services Corporation Act. The restriction is designed to assure that legal services staff attorney programs will not contravene the other restrictions in the act by attributing them to the non-Federal share of funds contributed to such programs. It is another restriction not contained in the administration's own proposed legislation.

Subsection (c) of section 1010 applies the restrictions contained in the conference bill generally to any non-Federal funds received by the Corporation or recipients. There are, however, two exceptions. First, where public funds are involved, that is funds from State or local government or other Federal funds, or Indian tribal funds, then the restrictions do not apply to funds made available for a specific legal assistance purpose. A second exception relates to the nature of the recipient which receives funds from other sources than the Corporation. In these cases, including legal aid societies—for example, the Legal Aid Society of New York City—then only the funds received from the Corporation would be subject to restrictions contained in the title and any other funds, whatever their source, would be subject to the terms under which they were provided.

Any violation of the bill's restrictions are to be enforced by the Corporation. The Corporation will issue regulations and guidelines which include specific procedures for suspension and termination of financial assistance to a project or of an employee for violations of the legislative restrictions. In addition, the Corporation is given the direct mandate to monitor and evaluate and provide for independent evaluations of programs supported in whole or in part under the legislation.

As a result of the action of the House last Tuesday, the bill that we now have before us differs from the original conference report in one respect. The bill that we will hopefully adopt today, and send to the President for his signature, alters the responsibility for handling the backup research, training, clearinghouse of information and technical assistance functions. Under this change in the conference bill, we have now accepted the House-passed provision that prohibits the rendering of the backup functions through grant or contract.

All of the backup functions will be assumed by the Corporation. Of course, since the Corporation under Section 1006(c)(1) of the bill may not "participate in litigation on behalf of clients other than the Corporation," all of the legal assistance activities conducted under this bill will continue to be rendered by the regular legal services programs. Legal services attorneys, whether they provide generalized legal representation or specialized representation on complex subject matters, will not be interfered with by this change in the conference bill, and it is expected that they will continue to provide high quality legal services for their clients. However, they will have to look to the Corporation—rather than grantees and contractees—for their research, information clearinghouse, technical assistance and training backup services.

We expect that the backup services will continue to be provided by the Corporation. Since these functions are of extraordinary importance to legal services offices, there should be no disruption in the provision of these functions. Therefore, until the Corporation is formed and has had the time to develop the capability to perform these functions, the current grantees would continue these functions. When the Corporation undertakes these functions, it can choose to provide them from its Washington office or local and regional offices. Whatever means are used by the Corporation, it should be understood that we expect that these services will continue to be provided in a manner that is responsive to the needs of the numerous legal assistance offices throughout the country.

The key to understanding the role of backup centers is this: Their functions are general and are not tied to research needed in the course of furnishing legal assistance with respect to a particular client or clients or research which is an integral or ongoing activity of a program furnishing legal assistance to eligible clients.

In the past, they have been called national backup centers for that reason—because their research and other activities have been generally available as backup support for programs throughout the Nation and their activities have not been linked to a particular program or client. Accepting the House bill's language on backup centers will therefore mean that the national, as distinct from client-connected or internal program research and inservice training activities, can only be carried out directly by the Corporation.

The Corporation can be expected to establish within its organization—whether at headquarters in Washington or in regional or branch offices around the Nation—backup or special assistance offices or divisions. For example, there could be, as a part of the Corporation itself, an Office of Special Assistance for Legal Services for Senior Citizens, and a similar office for Indians, for migrants, for the handicapped, and so forth. Such offices or units within the Corporation would be especially appropriate, it is important to point out, in view of the conferees' emphasis that services to deprived groups shall be a special concern of the Corporation. On this point, the joint explanatory statement of the committee of conference (S. Rept. No. 93–345) stated:

> The Senate amendment further required assurance of equitable services to significant segments of the population of eligible clients (including handicapped, elderly, Indians, migrants, and others with special needs). The Senate amendment also included a requirement to provide special consideration for utilizing organizations and persons with special experience and expertise in providing legal assistance to eligible clients. The House bill contained no comparable provision. The Senate recedes. The conferees agreed that service to these deprived segments of the population should be a special concern of the Corporation.

In addition, areas of subject matter expertise which have been covered by backup centers can be expected to be brought within the Corporation's functions as a part of its research, training, and technical assistance, and information clearinghouse activities.

Insofar as training goes, the House language on backup centers likewise will mean that national training programs, or training outside of a particular legal assistance program, could only be carried out directly as a part of the Corporation's own activities—that is, personnel providing the training would be employed directly by the Corporation and not through grant or contract.

With respect to training which is included within regular legal services programs under section 1006(a)(1), it should be noted that section 1007(b) provides:

> (b) No funds made available by the Corporation under this title, either by grant or contract, may be used—
>
> (5) to support or conduct training programs for the purpose of advocating particular public policies or encouraging political

activities, labor or antilabor activities, boycotts, picketing, strikes, and demonstrations, as distinguished from the dissemination of information about such policies or activities, except that this provision shall not be construed to prohibit the training of attorneys or paralegal personnel necessary to prepare them to provide adequate legal assistance to eligible clients.

Section 1007(b)(5) therefore recognizes that grants and contracts for legal services programs furnishing legal assistance to eligible clients will have inservice training and preparation programs for attorneys and paraprofessional personnel necessary to provide adequate legal assistance to eligible clients.

The House bill language now included in the revised conference agreement (section 1006(a)(3)) authorizes the Corporation—

(3) to undertake directly and not by grant or contract, the following activities related to the delivery of legal assistance—

(A) research,

(B) training and technical assistance, and

(C) to serve as a clearinghouse for information.

The words "related to" the delivery of legal assistance are the words which give a broader scope to the authority of the backup centers to carry out general research and supportive activities, in contrast to the more limiting words "furnishing legal assistance to eligible clients" and "for the purpose of providing legal assistance to eligible clients" which are used in paragraph (1) of section 1006(a) in describing the purpose of activities which regular legal service programs are authorized to carry out.

To summarize the effect of the change in the conference agreement, the new language, means that the Corporation is authorized to undertake directly, and not by grant or contract, research, training and technical assistance, and information clearinghouse activities "related to" the delivery of legal assistance. This does not prohibit similar activities without programs "furnishing" legal assistance to eligible clients, as distinct from such activities being merely generally "related to" the delivery of legal assistance, which under the revised conference agreement can now only be carried out directly by the Corporation.

Of course, legal services programs can and should cooperate with one another. A research or other supportive activity carried out under one legal assistance program qualifying under section 1006(a)(1)(A) should be available to other programs, in accordance with professional courtesy.

There are a variety of legal services programs—some covering a broad geographical area and others a smaller area. Some legal services programs—like law firms specializing in certain areas of law—might provide assistance, for example, to migrants, Indians, senior citizens, or others with special needs, over a broad geographical area. Of course, the requirements that attorneys be authorized to provide legal assistance in the jurisdiction where the assistance is initiated must be met—as provided in section 1006(b)(4) of the bill—as well as the requirement to consider the recommendations of the organized bar in communities to be served in filling staff attorney positions in legal services programs—section 1007(a)(8).

LEGISLATION MEETS ADMINISTRATION'S RECOMMENDATIONS

This conference report meets all the essential requirements the President requested the Congress to include in legislation creating the Legal Services Corporation. In fact it goes beyond the limitations requested by the administration and includes other restrictions added by the House and Senate.

Let us be clear about the nature of the Legal Services Corporation. The Corporation is in no way independent of the Federal Government. The Congress simply is following the Ash Commission's recommendations that the Legal Services Corporation is best administered outside an ordinary bureaucratic structure. Like every other federally chartered instrumentality, it is accountable to the people of the United States—through the appointment of its governing board, through the appropriations process, and through the need for the authorization committees to act upon the authorization at the end of 3 years. Furthermore, the Corporation and its grantees will be audited by the General Accounting Office. Its board of directors is to be appointed by the President, with the advice and consent of the Senate.

Let me reiterate that its appropriations must be enacted by Congress. The Office of Management and Budget will continue, as it does now, to include in the Budget that is submitted to Congress each January whatever amount of funds the administration desires to recommend for the Legal Services program for that particular fiscal year. The normal congressional appropriations process will take its course with respect to the Legal Services Corporation just as is the case with respect to the OEO legal services program now.

The provision of section 1005(e) of the bill providing that officers and employees of the Corporation are not officers and employees of the Federal Government for any purposes other than those specified in the legislation is designed to make clear, for example, that personnel slots, GS schedules, et cetera, are not subject to the usual civil service regulations and approval of the Civil Service Commission. The Appropriations Committees could, of course, indicate the number of personnel slots the Corporation would have to fill, and they would of course consider recommendations of the Office of Management and Budget and the Civil Service Commission with respect thereto.

The Board of Directors of the Corporation will make its own judgments about the future kinds of legal services activities the Corporation will be funding.

NEED FOR LEGAL SERVICES PROGRAM

For nearly a decade now, this Nation has challenged itself on many fronts to improve the lives of those of its citizens who live in poverty, by committing itself to a war on poverty. Among the most effective of these antipoverty programs has been the legal services program.

We live in a nation of laws. Poor persons face the same problems and have the same rights and claims under those laws as do persons who can afford to pay for legal assistance. By providing such assistance through federally funded programs to the poor person, we are permitting that person to live with dignity and respect within our Nation's laws—rather than with frustration outside of them.

To that end, the Congress has worked for more than 3 years to insure the continuation of the legal services program by enacting legislation to transfer that program from the Office of Economic Opportunity to an independent national Legal Services Corporation.

This administration has chosen to work with Congress to produce an independent vehicle for the continuation of those services, and the bill now meets in every essential respect the recommendations the President made when he submitted the Legal Services Corporation legislation last year.

We are now culminating the third congressional attempt to enact legislation to create the Legal Services Corporation. Previous efforts floundered in large part because of the administration's desire for the unfettered right of the President to appoint whomever he wished to the Board of Directors of the Legal Services Corporation. The pending legislation has totally met the administration's concern in that respect by providing for the President to name whomever he wishes to the Board, subject only to confirmation by the Senate.

The legal services program has been a controversial one from its inception. Inevitably, vindicating the rights of persons previously helpless to protect themselves legally has led to friction and conflict. Poor people, who were so often exploited or taken advantage of in the past, have had the assistance of attorneys under this program for the first time in their lives.

In fact, before the OEO legal services program was established, poor people often had no legal or very inadequate legal assistance in civil proceedings—against landlords and against agencies and institutions which affect the lives of the poor.

As a result, poor people—who are so often exploited or taken advantage of—have had the assistance of legal services attorneys with a sound grasp of how to protect the rights and responsibilities of persons who are otherwise virtually helpless before the legal system. The response of many who were the objects of lawsuits requiring them to change their practices was one of alarm and outrage—especially when legal services attorneys proved they could win 85 percent of their cases.

There are many restrictions and prohibitions placed on legal services attorneys under this conference report, and many checks on their activities to make sure they observe those restrictions.

I support the passage of this legislation because I believe the bill still adequately safeguards the one essential, overwhelmingly important element of a viable legal services program: the right of a poor person to high quality legal

advice and representation as to his legal rights and responsibilties.

This element—and not the rights or prerogatives of the attorney himself—is at the core of the need for a federally funded legal services program.

And this legislation safeguards that element by insuring the structural independence of the Corporation—and by insuring that there shall be no interference with an attorney in carrying out his professional responsibilities to his client as provided in the Canons of Ethics and the Code of Professional Responsibility of the American Bar Association.

In summary, Mr. President, the pending bill is one of the most carefully considered pieces of legislation to come before Congress in a long time. I believe it deserves the overwhelming approval of the Senate and the signature of the President so that the Constitution's requirement for equal protection of the laws for all citizens can be a reality for poor persons as well as for the rich.

Mr. JAVITS. I am pleased that the Senator from Wisconsin, the chairman of the Senate conferees has included in the RECORD a complete statement with respect to the major elements of the conference agreement, as I did when the conference report was first considered here last week.

In particular, I am pleased with the chairman's statement following statements by the managers in the House of Representatives to the effect that the prohibition contained in section 1010(c) on the use of nonpublic and nontribal funds received by the corporation is subject to important exceptions: one relating to the source of funds and the other relating to the entity receiving the funds, whatever their source. This will permit the continuation of non-Federal funding for entities such as the Legal Aid Society of New York without subjecting that funding to the restrictions contained in this bill. That society and others like it depend very significantly on contributions from the organized bar, as well as other non-Federal sources, and during the conference we took care to insure that they and the other entities spelled out in the second exception, are exempt from the prohibition so that they can continue to receive funds as they do now, without restriction.

Mr. President, now I would like to take 2 minutes, if I may, of time in opposition to the amendment.

Mr. President, I think it is very significant, in all of this discussion about what people did not know about what they were voting on, to go back to when this measure was before us on January 31, 1974.

Senator HELMS made a motion to strike the backup authority from the bill, which was before the Senate. Certainly one would expect that people knew what they were voting on there. That was pinpointed and specific. The vote was 67 nays and 24 yeas. I think in view of that record, plus the record of the vote here the other day, in which this whole matter was spelled out with the greatest completeness for the Senate as to exactly what we were about and why, plus the vote in the House, which had before it everything that was said here, the vote in the Senate being 75 to 18 and the vote in the House being 256 to 136, I just cannot see how it can be argued that there is some confusion or difficulty, or that people do not understand.

I think the answer is that an effort is being made to try to do two things right now: First, to defeat this measure which is before us now, and hopefully would otherwise be able to go to the President tonight; and, second, to shake up the White House into some idea that it did not understand what it was doing in expressing the view as to how this matter would be handled when it got to the President's desk.

I do not think either one is justified. I think it is high time that this matter was at last brought to a definitive conclusion. I do not think the Senate is going to fall for the kind of irresolution, which an effort is being made to introduce, nor that the White House will.

I hope very much, therefore, that when the time comes to vote we will disapprove the Helms amendment which, by the way, it is agreed is to be voted on en bloc and with a back-to-back vote on the original motion which I trust the Senate will carry and at long last send the measure to the White House, where we have every right to believe it will be signed.

Mr. NELSON. Mr. President, I yield to the Senator from Minnesota.

Mr. MONDALE. Mr. President, I rise to support Senate concurrence in the House amendment to H.R. 7824.

It is, frankly, not with any great deal of pleasure or satisfaction that I rise to support this bill, in its latest reincarnation. For over 3 years, we in the Congress have attempted time and again to reach agreement with the White House on a legal services bill which would protect the attorney-client relationship, and insure equal justice for all poor Americans.

In 1971, I was privileged to introduce the first legislation calling for creation of an independent legal services corporation. This legislation, which had the bipartisan cosponsorship of 21 of my colleagues, would have provided the type of legal assistance which would have given the poor the same rights and privileges enjoyed by all those in our society wealthy enough to afford counsel. After extensive hearings and long negotiations with the White House that year, we felt we had reached agreement on a bill which incorporated features both of the legislation which I introduced, and the bill introduced by the distinguished Senator from Kentucky (Mr. COOK), embodying many of the administration's concepts in this area.

Sadly, we were mistaken, and the bill was vetoed in December of 1971.

In 1972, we again tried to reach agreement with both the House and the White House on a legal services corporation bill, an attempt which ultimately foundered on a number of issues. Again, however, the supporters of a strong and independent legal services program in the Senate indicated their willingness to reach meaningful compromise. And again, largely as a result of implicit White House pressure, these attempts to reach a compromise were frustrated.

Beginning last year, Congress for a third time began the process of attempting to enact this legislation. The administration sent to Congress a new legislative proposal which differed in substantial respects from their original proposal of 1971. House and Senate action and a long conference ensued, and once again we felt that we had reached an agreement which would receive White House support.

Frankly, even the conference report which was tabled last week in the Senate was a pale substitute for the type of strong legislation which many of us in the Senate have long felt was needed if we were to insure real independence for the legal services corporation and its attorneys. Yet, in good faith, we entered into an agreement on a conference report which we felt the White House could support. In some respects, even that conference report was more restrictive than was the President's 1971 or 1973 legislative proposals. Again, we indicated our willingness to compromise in order to save this vital program.

And yet even that apparently was not enough. Even the concessions which we made in good faith were apparently not sufficient to satisfy the White House's need to placate those who really do not feel deeply about the need for equal justice under the law for poor Americans.

And so we were asked to accept one final compromise, with the promise that the President would then sign the bill.

I know that the distinguished Senator from New York (Mr. JAVITS) and the distinguished Senator from Ohio (Mr. TAFT), to whom these assurances were made, only reluctantly accepted this final compromise relating to the funding of the present backup centers by grant or contract. As strong supporters of a vital legal services program, I know they were not eager to yield once more to unreasonable White House pressure.

And I know equally that the distinguished floor manager of this legislation, Mr. NELSON, who has done such an outstanding job for over 3 years in this most difficult legislative task, as well as the distinguished Senator from California (Mr. CRANSTON), were also most disappointed that this final concession had to be made. I shared in their disappointment, and in their reluctance to accede to this inherently unreasonable White House demand.

Unfortunately, however, we all knew that overriding a veto in the House would simply be impossible. And we all realized that the first need was to preserve as much as possible of the legal services program, and hope for the day when there is an administration which does believe in equality under the law.

It is particularly disappointing that the White House's price for approval of this bill relates to present backup center funding by grant or contract. It is my firm expectation that research and training functions will continue to be carried on in a variety of ways, since the 15 backup centers now in operation are a vital part in assuring the efficiency and effectiveness of the legal services operation.

Yet I find it very strange that an administration which supposedly prides itself on reducing Government expenditures and providing efficient use of tax-

payers' moneys would insist as its price for approval, on restrictions relating to a funding provision which helps ensure efficiency and reduce costs. And it is particularly strange in view of the fact that the restriction on funding of backup centers which we are now approving was contained in neither the 1971 nor the 1973 administration-sponsored legal services proposals. And yet I suppose that this is merely the latest in a series of moves by this administration which are difficult to understand, considering that a strong and independent legal services corporation is in my view one of the most conservative, law and order pieces of legislation which the Congress could enact.

I am confident that under this legislation, legal services offices will be able to provide high-quality legal assistance, including assistance of a specialized nature. I am also confident that background research work in specialized areas and a variety of technical assistance and training functions will continue to be undertaken by the corporation. These functions are essential to continued effective performance by legal services attorneys.

Yet the limitations on the authority to provide these functions in the university-based backup centers now in existence will take its toll. I deeply regret that only in this way have we been able to assure the continued operation of the legal services program. And I await the day when national leadership will once again view its principal goal not as protecting the vested interests of the few, but rather as promoting the legal rights of all Americans.

Mr. President, this program has been probably the most successful, most cost-effective program of all created under the OEO program. It is an inexpensive program. It is based upon the finest notions of justice, of law and order, and of due process. It is designed to achieve the simple function of permitting poor people who could not otherwise go into court to do so and to have their just grievances adjudicated before the courts and the administrative tribunals of our land.

I find it especially remarkable and ironic that this administration, which this year alone will spend a million dollars of public money in defense of the President of the United States, before the impeachment tribunals and other proceedings, would so loosely spend the public money on the defense of a single man and then turn around and be so restrictive in providing the opportunity for poor people in this country to have their constitutional and legal rights asserted before the courts of this land.

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. MONDALE. Mr. President, will the Senator yield me 2 additional minutes?

Mr. NELSON. I yield the Senator such time as he may desire.

Mr. MONDALE. Mr. President, this is a conservative program. It is supported by the American Bar Association. Over the years, we have heard several presidents of the American Bar Association stand up and say this program is needed. In order to have a good program, it has to be one in which the Canons of Ethics can be obeyed, a program that is as free as possible from political interference, a program which permits a lawyer to pursue all the remedies that a lawyer would pursue if he were representing a corporation or a wealthy client. But consistently the administration has tried to interfere with the program, to diminish its effectiveness, to discourage the best young men and women from joining the program, and to limit the remedies that would be available for lawyers under this program.

This administration has sponsored outrageous and some, I think, completely erroneous information about the conduct of the program over the years, and they have done everything they can to destroy its sophistication and its effectiveness. I think that their performance in this area is without reason and, in my opinion, is nothing less than outrageous.

I hope the day will soon come when once again we have leadership in this country that believes in due process, in law and order, and in justice. Then we can truly get down to the work of achieving equality in this country.

NEW HAMPSHIRE LEGAL ASSISTANCE ACCLAIMED

Mr. McINTYRE. Mr. President, the Senate is acting on the conference committee report setting up a national legal services corporation. I have wholeheartedly supported the legal assistance program, and today I feel compelled to again stress its importance. I believe that it goes without saying that the law's protection ought to apply equally to all people, regardless of race, creed, color, or income level. Equal justice for all is a revered principle in our country, yet without equal access to our legal system the principle becomes a lofty ideal, and nothing more.

The New Hampshire legal assistance program has worked since 1966 to make the concept of equal justice under the law a reality. Last year alone thousands of New Hampshire citizens who could not afford legal help were given a fair chance for representation under this program. It is not surprising, therefore, that the NHLA has won acclaim from several important organizations in New Hampshire, including the New Hampshire Bar Association, the Judicial Council of New Hampshire, bar associations of many counties, the Manchester Bar Association, and the Nashua Bar Association.

Recently, in a letter addressed to the President, the New Hampshire Bar Association reiterated its approval of the New Hampshire legal assistance, and urged continuance of this organization through the establishment of a national legal services corporation. The voice of the New Hampshire Bar Association should be heard, I believe. Certainly, there is no organization which can speak with greater knowledge and wisdom about the needs for legal assistance in New Hampshire.

Mr. President, I ask unanimous consent to have printed in the RECORD the letter from the New Hampshire Bar Association.

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

JULY 2, 1974.

President RICHARD M. NIXON,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: The New Hampshire Bar Association records it continuing support of the work of New Hampshire Legal Assistance, and declares that services being rendered by the federally funded legal assistance program in this State are vital to realization of the ideal of equal justice; and recognizing that providing legal representation to the poor is an obligation of society, urges you to sign the bill establishing a national legal services corporation.

Very truly yours,

ARNOLD P. HANSON,
President.

Mr. CASE. Mr. President, since late 1966, the legal services programs, set up under the auspices of the Office of Economic Opportunity, have functioned in New Jersey to represent our poorest residents. One of the few tenuous links of communication during the riots of 1967 in Newark was the fledgling Newark legal services program. The most substantial advances in case law that have improved the lot of tenants in this State were handled by legal services lawyers. Some of the most significant process questions in the State were handled by its lawyers. For example, the right to counsel in municipal courts where the possibility of incarceration existed was established by legal service lawyers. Year in and year out, over 50,000 clients annually are represented in the State of New Jersey by approximately 130 attorneys in 13 programs. Overworked and poorly paid, they have maintained their morale despite the uncertain future that has faced the legal services program for the last 2 years. The clients they serve have nowhere else to go.

The legal services program was designed not only to assure that the poor had access to an attorney, but to assure that the type of services provided the poor were of the same quality as those available to citizens able to afford an attorney. Those who worked within OEO to set up the program realized early that the local legal services attorney was in vital need of backup assistance. Sometimes this was because of inexperience but all too often it was because of the shortage of resources and manpower necessary to keep current with legislative, administrative, and case law developments relevant to the poor. Unfortunately, local legal services programs are also severely understaffed and plagued with huge caseloads. Backup assistance—such as training of new attorneys, continuing legal education in new developing fields, and specialized research on complex legal problems or the complex Federal programs so vitally affecting the poor—was believed vital and was provided through national programs often affiliated with law schools.

The legislation we are approving today alters the delivery of this backup assistance and research by eliminating the Corporation's authority to provide such services through grantees or contractees. It is the intent of this legislation, however, that all such backup services con-

tinue. Background research and analysis in poverty law specialties, training of attorneys or paraprofessionals, technical assistance in the delivery of legal assistance activities, all of these are to be carried on by the Corporation. No program providing legal assistance to clients whether serving local, State, or wider geographic areas can function without these backup services.

We expect these services to continue while the Corporation determines how best to provide them and we expect the Corporation to evaluate carefully the best approach to use to assure their most effective and efficient delivery. The capacity to provide such backup assistance was developed throughout the history of the legal services program and after experimentation with various approaches. The Corporation cannot overlook this experience. It may be, for example, that the Corporation need not create an entire new staff to provide backup. A centralized office in Washington is not the only alternative open and use of the present regional office structure may allow the Corporation to take advantage of the expertise of legal services attorneys presently involved in providing backup services. The transition from grantees or contractees to a more directly controlled operation should be orderly and will take time to assure selecting and training personnel of competence and experience. It will not be necessary to precipitously dissipate the expertise and experience built up during the many years the OEO program was in effect.

Nothing in this legislation is designed to limit the Corporation's authority to fund legal services program designed to provide legal assistance to eligible clients. Litigation, legislative and administrative representation, and appellate practice on behalf of eligible client and client groups remain. Programs providing such legal assistance must be able to research their own cases, train their own lawyers, coordinate with other programs, and function like law offices in the private sector. Neither does this legislation alter the authority of the Corporation to fund programs serving specific client groups or with the capacity to carry on complex litigation or administrative representation on behalf of eligible clients at the State or National levels. Section 1006(a)(1) provides the Corporation with authorization language to assure funding of these legal assistance programs.

Let me reiterate again, that programs providing legal assistance under section 1006(a)(1) whether operating on a local, State or National level, will be substantially reduced and undermined if backup services; for example, research on complex legal problems, training, and technical assistance are not provided fully and effectively by the Corporation. We intend these support services to continue.

Mr. BROOKE. Mr. President, the present compromise on legal services is one I shall reluctantly support. Soon after the legal services program began, OEO recognized that programs providing legal assistance to eligible clients required support and backup services in order to assure the effective delivery of legal services to the poor. Neighborhood lawyers, working in programs deluged by clients, were unable to research the many Federal and State programs affecting the poor or research complex legal problems, were not trained in new fields of substantive law or procedure, and were unable to keep abreast of new developments, because no services provided to the private bar focused on poverty law specialties. To meet these problems faced by the neighborhood attorney, backup services were provided by OEO through programs funded by grant or contract. Now, a legislative compromise has shifted the approach.

However, this legislation does not eliminate these backup services; it does not eliminate specialized research, preparation of manuals and handbooks, the training of attorneys in procedure and substance nor does it eliminate the need for a clearinghouse or for technical assistance relating to the delivery of legal assistance activities. It is the intent of this legislation to continue these services to legal services attorneys. As much as I oppose this compromise agreed upon to preserve legal services, as much as I believe that the present means of delivery of such backup services have proved efficient and effective, and as much as I reject the contentions of those opposed to the so-called "backup centers," I have come to the conclusion that the corporation can undertake these services, and thus this compromise will have my reluctant support.

Backup services are not just necessary for local legal services attorneys. They are also necessary for legal services programs or program components who have the resources, capability, and specialization to participate in complex litigation or to represent client or client groups before State and Federal legislative and administrative bodies. These State and national programs require a clearinghouse, require the development of litigation manuals and handbooks, require specialized research and analysis, and require national training in technical, specialized poverty law subjects.

It is the intent of this legislation that such backup services continue to be provided and provided fully and without any interruption to programs providing legal assistance to eligible clients. In providing such backup, the corporation has substantial leeway. The development of a large staff working in one office may not be at all necessary. Regional offices, dispersed throughout the country and in close contact with local programs, should be considered. The delivery of training and technical assistance should utilize the expertise and experience developed in response to legal services program needs and may best be delivered through consultants. The corporation should carefully explore how most effectively and efficiently to provide these backup services while at the same time assuring that programs receive no substantial disruption in their delivery.

REIMBURSEMENT FOR SEWAGE TREATMENT PROJECTS

Mr. MOSS. Mr. President, I am pleased to rise in support of Senator NELSON's amendment appropriating funds for "reimbursement" sewage treatment projects, and to congratulate him for his fine work in focusing the Senate's attention on this problem.

The factual and legal background giving rise to the need for this amendment have been ably stated by Senator NELSON and others, and I shall not repeat what has already been said.

I do want to point out to my colleagues that the amendment deserves their support—not simply because it will ease the burden of indebtedness borne by communities and local taxpayers in every State—but also because it means a keeping of faith with the cities.

Federal relations with States and cities are strained by a lack of trust and a lack of communication. We all agree that this situation is deplorable and must be set right.

To accomplish that goal, we must—at a minimum—make sure that the Federal Government honors its pledges of financial assistance.

This amendment—fulfilling a promise of financial support on which cities have relied in building sewage treatment plants—is an important step in the right direction.

I urge the adoption of the proposal as an indication that it is just keeping faith with our cities and towns.

RECESS UNTIL 1:50 P.M.

Mr. NELSON. Mr. President, I ask unanimous consent that the Senate stand in recess until 1:50 p.m. today.

There being no objection, at 1:09 p.m., the Senate took a recess until 1:50 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. TAFT).

LEGAL SERVICES CORPORATION ACT OF 1974

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. NELSON. Mr. President, I ask unanimous consent that further call of the quorum be dispensed with.

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

Mr. NELSON. Mr. President, I ask unanimous consent that there be inserted in the RECORD at this point the joint explanatory statement of the committee of conference, changed to reflect the revisions on the backup centers.

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

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 7824) to establish a Legal Services Corporation, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The House bill created an independent corporation in a separate provision that was not part of the Economic Opportunity Act. The Senate amendment created an independent corporation within the Economic Opportunity Act as a new title X. The House recedes.

The Senate amendment contained a list of findings and a declaration of purpose. There was no comparable House provision. The House recedes with an amendment clarifying the intention of the conferees that the program should be kept free from the influence of or use by it of political pressure, and a perfecting amendment.

The House bill defined legal assistance as provision of legal services under the Act. The Senate amendment defined legal assistance as legal advice and representation and other appropriate legal services consistent with the title. The conference agreement provides that legal assistance means the provision of any legal services consistent with the purposes and provisions of the title.

The House bill defined "staff attorney" as an attorney who receives more than one-half of his professional income from a recipient organization solely to provide legal assistance to eligible clients. The Senate amendment defined "staff attorney" as one who receives a majority of his professional income from provision of legal assistance pursuant to the title. The Senate recedes.

The House bill provided that the Corporation and programs assisted by the Corporation shall be eligible to be treated as tax-exempt organizations under the Internal Revenue Code, and provided that if such treatments are conferred the Corporation shall be subject to all provisions of such Code relevant to the conduct of tax-exempt corporations. There was no comparable Senate provision. The Senate recedes with a perfecting amendment.

The House bill liquidated the Corporation as of June 30, 1978, unless sooner terminated by an Act of Congress. The Senate amendment authorized appropriations for three years. The House recedes in view of the three-year authorization of appropriations.

The House bill computed the term of office of the initial Board members from the date of enactment. The Senate amendment computed the term of office of the initial Board members from the date of the first meeting of the Board. This difference occurred in several places throughout the House bill and the Senate amendment. The House recedes and the conference agreement reflects this decision throughout.

The House bill required the President to select from among voting members the chairman of the Board who shall serve a term of one year. The Senate amendment allowed the President to similarly select the first chairman who shall serve a three-year term; thereafter the chairman shall be annually selected by the Board from among its voting members. The House recedes.

The Senate amendment included offenses involving moral turpitude in the list of reasons to remove a Board member. The House bill contained no comparable provision. The House recedes.

Both the House bill and the Senate amendment required the Board to request the Governors of the several States to appoint State advisory councils. The Senate amendment required the Governor to consult the State bar association for its recommendations as to the attorney members of the advisory council. The House bill contained no comparable provision. The House recedes.

The House bill required the Board to appoint a State advisory council within 90 days if the Governor failed to do so. The Senate amendment authorized the Board to make such appointments. The House recedes.

The House bill required the State advisory council to furnish a copy of violations to the recipient affected. The Senate amendment established such a requirement as to apparent violations and required the Corporation to notify affected recipients. The Senate recedes with an amendment adding "apparent" before the word "violations" in the House language.

Both the House bill and the Senate amendment required that all meetings be open to the public unless the Board by a two-thirds vote decides that they be closed on a specific occasion. The Senate amendment required further that minutes shall be available to the public. The House bill contained no comparable provision. The House recedes.

The Senate amendment established a National Advisory Council charged with consulting with the Board and President of the Corporation. The 15-member council shall be appointed by the Board and shall serve for three-year terms and represent the organized bar, legal education, project attorneys, eligible clients, and the general public. The House bill contained no comparable provision. The Senate recedes. The conferees wish to make clear that by removing the requirement in the Senate bill that there be an advisory council they in no way intend to prohibit the Corporation in the exercise of its discretion from establishing an advisory council.

The Senate amendment required the Board to appoint a President and "other Corporation officers required by law". The House bill required the appointment of a president and "such other officers as the Board determines to be necessary". The Senate recedes.

The Senate amendment prohibited the use of political tests or qualifications in appointing or promoting or taking other personnel actions with respect to employees of the Corporation or a recipient. The House bill contained no comparable provision. The House recedes with an amendment adding "political" before "qualifications" to make clearer the restriction in the Senate amendment.

Both the House bill and the Senate amendment prohibit Board members from participating in any action with respect to any matter that directly benefits such member or pertains (specifically in the Senate amendment) to any firm or organization with which the member is then associated. The Senate amendment further required that there be no association with such firm or organization for a period of two years. The House bill contained no comparable provision. The House recedes.

The Senate amendment placed Executive Schedule level V as the maximum rate of compensation of any officer or employee of the Corporation. The House bill contained no comparable provision. The House recedes.

The Senate amendment provided that officers and employees of the Corporation not be considered officers or employees of the Federal Government and that the Corporation not be considered a department, instrumentality, or agency of the Federal Government for purposes of any Federal law or Executive order, except as specifically provided in this title. The House bill contained no comparable provision. The House recedes with a perfecting amendment.

The Senate amendment provided that nothing in this title shall be deemed to authorize any department, agency, officer, or employee of the United States or the District of Columbia to exercise any control with respect to the Corporation or any recipient or eligible client receiving assistance under this title. The House bill contained no comparable provision. The Senate recedes.

The Senate amendment permitted the Office of Management and Budget to review and submit comments upon the Corporation's annual budget request at the time it is submited to the Congress. The House bill contained no comparable provision. The House recedes.

The Senate amendment specifically required that employees of the Corporation be considered Government employees for purposes of work injury compensation, retirement, life insurance, and health insurance, and required the Corporation to make contributions similar to other Federal agencies for these purposes. The House bill contained no comparable provision. The House recedes.

The Senate bill included in several places the requirement that the Corporation in exercising its powers must at all times insure the protection of attorneys' professional responsibilities. The House bill contained no comparable provision. The Senate recedes in light of an agreement to include this provision in a single section—1006(b)(3)—as applicable to the entire title.

Both the House bill and the Senate amendment authorized the Corporation to make grants to and contracts with State and local governments. The Senate amendment limited this authority to cases, upon special determination by the Board, that would provide supplemental assistance which would not be adequately provided through nongovernmental arrangements.

The House bill included in the list of recipients "other appropriate entities." The Senate amendment modified "organizations and corporations" by "nonprofit." The conference agreement combines the provisions, with the understanding that the words "firms, partnerships, and corporations" are intended to refer to entities of attorneys authorized to practice law in the State in question.

The conference agreement provides that the Corporation is authorized to provide financial assistance to qualified programs furnishing legal assistance to eligible clients and to make grants to and contracts with individuals, partnerships, firms, corporations, and non-profit organizations, and with State and local governments only upon special determination by the Board that such services will not be adequately provided through nongovernmental arrangements.

The conferees agree with the need to protect the legal services program from unwarranted interference, particularly interference which is brought for political purposes. It is recognized, however, that there may be circumstances where the best interests of the program would be served in using State and local governments. The conference agreement provides the corporation with limited discretion in these cases, but it is not intended that there should be any substantial shift of resources away from the present classes of recipients to State or local governments.

The Senate amendment authorized the Corporation to make such other grants and contracts as necessary to carry out the purposes of the title. The House bill contained no comparable provision. The House recedes.

* * * * *

[Material deleted is language explaining research back-up research functions which was set forth in Explanatory Statement accompanying original Conference Report: See addendum at end of Joint Explanatory statement.]

The House bill provided the Corporation with authority to terminate recipients after a hearing for violation of rules and regulations. The Senate amendment provided similar termination authority after other appropriate remedial measures had been exhausted and after a hearing in accordance with section 1011. The Senate recedes with an amendment retaining a reference to section 1011 procedures. The conferees intend that remedial measures short of termination be utilized prior to termination.

The House bill required the recipient to take appropriate disciplinary action against an employee who violates the Act or its by-laws or guidelines. The Senate amendment required similar remedial or disciplinary action in accordance with due process procedures. The House recedes.

Both the House bill and the Senate amendment prohibited attorneys from receiving any compensation for the provision of legal assistance under this Act unless such attorney is "authorized to practice" in the

House bill or "admitted or otherwise authorized by law, rule or regulation" in the Senate amendment. The House recedes.

The House bill applied restrictions with respect to picketing, boycotts, and strikes to employees of the Corporation and recipients who receive a majority of their annual professional income from the provision of legal assistance under the Act. The Senate amendment applied similar restrictions (except as permitted by law in connection with an employee's own employment situation) to all employees of the Corporation and recipients. The House recedes. The conferees intend that the prohibition against "encouraging" these activities should not be interpreted so as to preclude legal advice and representation for an eligible client with respect to such client's legal rights and responsibilities.

The House bill and the Senate amendment contained substantially similar provisions requiring the Corporation to insure that its employees and employees of recipients refrain from participation in, and from encouragement of others to participate in, rioting or civil disobedience, violation of an injunction, or any illegal activity. The House recedes.

In addition, the Senate amendment prohibited employees from engaging in public demonstrations and from intentionally identifying the Corporation with any prohibited political activities. The House bill contained no comparable provision. The House recedes.

The conference agreement, therefore, provides that the Corporation shall insure (1) that no employees of the Corporation or a recipient (except as to the employee's own employment situation), while carrying out activities assisted under this title, engage in or encourage others to engage in public demonstration or picketing, boycott, or strike, and (2) that no such employees shall at any time engage in or encourage others to engage in any of the following activities: (i) any rioting or civil disturbance, (ii) any activity which is in violaton of an outstanding injunction of any court of competent jurisdiction, (iii) any other illegal activity, or (iv) any intentional identification of the Corporation or any recipient with any political activity prohibited by section 1007(a)(6). The Board is required to issue rules and regulations to provide for the enforcement of this paragraph as well as section 1007(a)(5), which shall include remedies in accordance with the procedures of section 1011.

The Senate amendment required termination after appropriate remedial measures and after a hearing in accordance with section 1011. The House bill left these procedures to the Board. The House recedes with a clarifying amendment.

The Senate amendment required the Corporation to insure that in areas where the predominant language is other than English, the predominant language would be utilized in the provision of legal assistance whenever feasible. The House bill contained no comparable provision. The House recedes with an amendment modifying the requirement of the Senate amendment to provide that "the Corporation shall, to the extent feasible, provide that their principal language is used in the provision of legal assistance".

Both the House bill and the Senate amendment prohibit the Corporation from undertaking to influence the passage or defeat of any legislation by the Congress or by any State or local legislative body. The Senate amendment allowed the Corporation to testify and make appropriate comment in connection with legislation or appropriations directly affecting the activity of the Corporation. The House bill contained no comparable provision. The House recedes.

Both the House bill and the Senate amendment prohibited assets of the Corporation from being used to benefit any director, employee, or officer except as reasonable compensation for services. The Senate amendment explicitly allowed reimbursement for expenses. The House bill contained no comparable provision. The House recedes.

The House bill and the Senate amendment prohiibted the Corporation and any recipient from making available corporate funds, program personnel, or equipment for use in advocating or opposing ballot measures, referendums, or initiatives. The Senate amendment contained an exception to this prohibition where such provision of legal advice and representation is necessary by an attorney, as an attorney, for any eligible client with respect to such client's legal rights and responsibilities. The House bill contained no comparable provision. The conference agreement prohibits advocating or opposing such measures, but provides that an attorney may provide legal advice and representation as an attorney to any eligible client with respect to such client's legal rights.

The Senate amendment prohiibted class action suits, class action appeals, and amicus curiae class actions from being undertaken except with the express approval of the recipient's project director in accordance with policies established by the governing body of the recipient. The House bill contained no comparable provision. The House recedes.

The Senate amendment prohibited employees of the Corporation or recipients from intentionally identifying the Corporation with any partisan or nonpartisan activity of a candidate for public or party office. The House bill contained no comparable provision. The House recedes.

The Senate amendment made applicable to employees of the Corporation the provisions of the Hatch Act prohibiting active participation in political management or political campaigns and prohibiting interference in elections or coercing of contributions for political purposes. The House bill contained no comparable provisions. The House recedes.

The House bill provided that all attorneys while engaged in activities supported by the Corporation refrain from any political activity. The Senate amendment prohibited activity associated with a political party or association, or campaign for public or party office. The Senate recedes.

Both the House bill and the Senate amendment prohibited use of Corporation funds for transportation to the polls and voter registration activities. The House bill excepted representation in civil or administrative proceedings and legal representation in registration cases. The Senate amendment excepted legal advice and representation to any eligible client with respect to such client's legal rights and responsibilities. The conference agreement makes the exception for "legal advice and representation".

The Senate amendment prohibited certain political activity of staff attorneys in their "off time" by cross referencing certain provisions of the Hatch Act prohibiting interference in an election and coercing of political contributions. The House bill prohibited taking an active part in partisan or nonpartisan political management or in partisan or nonpartisan political campaigns. The Senate recedes with a clarifying amendment to make reference to the provisions of the Hatch Act prohibiting interference in an election, coercing of political contributions, and taking an active part in political management or political campaigns, and applies the political activities prohibition, as in the House bill, to both partisan and non-partisan political activities.

The House amendment provided that in any action commenced by the Corporation or a recipient on behalf of any party in which a final judgment is rendered in favor of a defendant against the Corporation or a recipient's plaintiff the court may award reasonable costs and legal fees to such defendant and such costs shall be paid by the Corporation. The Senate amendment contained no comparable provision. The conference agreement provides that a court may, upon motion by the defendant and upon a finding by the court that the action was commenced or pursued for the sole purpose of harassment of the defendant or that the Corporation or a recipent's plaintiff maliciously abused legal process, enter an order (which shall be appealable before being made final) awarding reasonable costs and legal fees incurred by the defendant in defense of the action, except when in contravention of a State law, a rule of court, or a statute of general applicability, Any such costs and fees shall be directly paid by the Corporation.

Both the House bill and the Senate amendment required the Corporation to establish guidelines for client eligibility. The Senate amendment required consultation with the Governors of the several States. The House bill contained no comparable provision. The House recedes.

The House bill and the Senate amendment required that the eligibility guidelines take into account family size, cost of living in the locality, and other related matters. The House bill further added assets, income, fixed debts and medical expenses. The Senate amendment required the determination to be based on appropriate factors relating to financial inability to afford legal assistance. The conference agreement consolidates both provisions.

The House bill prohibited eligibility for any individual capable of gainful employment if his lack of income resulted from refusal or unwillingness without good cause to seek or accept employment. The Senate amendment provided that eligibility guidelines take into consideration evidence of a prior determination that lack of income resulted from a refusal to seek or accept employment without good cause commensurate with such individual's age, health, education and ability. The conference agreement generally combines both provisions. It eliminates the phrase "commensurate with such individual's age, health, education, and ability", and provides that "evidence of a prior determination" that an individual's lack of income results from a failure "without good cause, to seek or accept an employment situation" will be a disqualifying situation.

The House bill required the Corporation to insure adequate assistance in both urban and rural areas. The Senate amendment required the Corporation to insure the most economical, effective, and comprehensive delivery of legal assistance to persons in urban and rural areas. The conference agreement provides that the Corporation shall insure the most economical and effective provision of legal assistance to persons in urban and rural areas.

The Senate amendment further required assurance of equitable services to significant segments of the population of eligible clients (including handicapped, elderly. Indians, migrants, and others with special needs). The Senate amendment also included a requirement to provide special consideration for utilizing organizations and persons with special experience and expertise in providing legal assistance to eligible clents. The House bill contained no comparable provision. The Senate recedes. The conferees agreed that service to these deprived segments of the population should be a special concern of the Corporation.

The House bill contained an absolute prohibition on the outside practice of law for attorneys employed full time in activities supported by the Corporation, and required that they represent only eligible clients. The Senate amendment prohibited attorneys employed full time in legal assistance activities supported in major part by the Corporation from any compensated outside practice of law and any uncompensated outside practice of law except as authorized in guidelines

promulgated by the Corporation. The House recedes.

The House bill required that no funds made available to recipients be used to influence an executive order or similar promulgation by a Federal, state, or local agency or to influence the passage or defeat of legislation by Congress or state or local legislative bodies, except that recipient personnel may (1) testify when requested to do so by a governmental agency, a legislative body, or committee or member thereof, or (2) in the course of providing legal assistance to an eligible client (pursuant to Corporation guidelines) make representations or testify only before local governmental entities. The Senate amendment also prohibited use of funds to influence the passage or defeat of legislation except when such representations are requested by a legislative body, a committee, or a member thereof, or when such representation by an attorney as an attorney is necessary to the provision of legal advice and representation for any eligible client with respect to such client's legal rights and responsibilities. The Senate prohibition did not apply to executive orders.

The House recedes with the following amendments: the prohibition is extended, as in the House bill, to influencing the issuance, amendment, or revocation of any executive order or similar promulgation of any governmental body; the exception with respect to requested representations by attorneys is extended, as in the House bill, to include a request by a governmental agency; and the exception permitting attorneys to represent particular clients is qualified by stating that such exception shall not be construed to permit a recipient or an attorney to solicit a client for the purpose of making such representation possible, or to solicit a group with respect to matters of general concern to a broad class of persons as distinguished from acting on behalf of any particular client.

The House bill required the Corporation to establish guidelines for consideration of appeals to be implemented by each recipient to insure efficient utilization of resources except that such guidelines shall in no way interfere with attorneys' responsibilities. The Senate amendment required recipients to establish guidelines for a system of review of appeals to insure efficiency and avoid frivolous appeals. The conference agreement combines both provisions.

The House bill required recipients to solicit recommendations of the organized bar in the community being served before filling staff attorney positions and to give preference in filling such positions to qualified persons who reside in the community to be served. The Senate amendment contained no comparable provision. The Senate recedes. The conferees agree that the term "organized bar in the community being served" means the bar organization (or organizations) for the geographical area which most closely corresponds to the area to be served by the project.

The Senate amendment required that every grantee, contractor, or person or entity receiving financial assistance under the title or predecessor authority under the Economic Opportunity Act which files with the Corporation a timely application for refunding be provided interim funding necessary to maintain its current level of activities until (1) the application has been approved and funds pursuant thereto received or (2) application has been denied in accordance with the due process procedures of section 1011. The House bill contained no comparable provision. The House recedes.

The House bill required the Corporation to insure that all attorneys engaged in legal assistance supported under the Act (1) refrain from the "persistent incitement of litigation", (2) refrain from any other activity prohibited by the Canons of Ethics and Code of Professional Responsibility of the American Bar Association, and (3) refrain from personal representation for a private fee for a period of two years in any cases which were first presented to them while engaged in legal assistance activities supported by this Act. The Senate amendment contained no comparable provision. The Senate recedes with an amendment changing the 2-year prohibition to an absolute prohibition against legal services attorneys providing personal representation, for a private fee, in any cases in which they were involved while engaged in legal assistance activities.

Both the House bill and the Senate amendment prohibited funds to be used by grant or contract for the provision of legal assistance with respect to a criminal proceeding.

The conferees understand "criminal proceedings" to refer to proceedings brought by the Government of the United States or any of the States. It is not the intent of the conferees to prohibit representation of Indians charged with misdemeanor offenses in tribal courts, as distinct from criminal charges in Federal or State courts. Due to the unique legal problems encountered by Indians on reservations, this provision should not be construed to limit representation of Indian clients in tribal courts such as is now being provided in certain legal services programs on Indian reservations.

The House bill extended this prohibition to (1) fee-generating cases (except in accordance with guidelines promulgated by the Corporation) and (2) the provision of legal assistance in civil actions to persons who have been convicted of a criminal charge where the civil action arises out of alleged acts or failures to act connected with the criminal conviction and such action is brought against an officer of the court or against a law enforcement official. The Senate amendment contained no comparable provision. The Senate recedes with an amendment prohibiting the use of Corporation funds to provide legal assistance in civil actions to persons who have been convicted of a criminal charge where the civil action arises out of alleged acts or failures to act for the purpose of challenging the validity of the criminal charge.

The guidelines that the Corporation issues with regard to fee-generating cases should insure that staff attorneys do not unnecessarily compete with private attorneys while at the same time guaranteeing that eligible clients are able to obtain adequate legal assistance in all cases. Generally the private bar is eager to accept contingent fee cases (negligence cases or workmen's compensation cases); however, there may be instances in which no private attorney will be willing to represent such an individual either because the recovery of a fee is unlikely or the fee is too small or there is some other reason for which the private bar will not accept the case. The Corporation must be able to provide guidelines so that eligible clients will be able to obtain legal assistance in all appropriate cases whether fee-generating or not.

The House bill prohibited the Corporation from making grants to or contracts with any "private law firm" which expends more than 50% of its resources and time litigating issues either in the broad interests of a majority of the public or in the collective interests of the poor, or both. The Senate amendment prohibited grants to or contracts with any "public interest law firm" which expends 50% or more of its resources and time litigating issues in the broad interests of a majority of the public. The Senate recedes with an amendment striking from the House language "or in the collective interests of the poor, or both".

The House bill prohibited the Corporation from supporting or conducting training programs for the advocacy of any particular public policies or which encourage political activities, labor or antilabor activities, boycotts, picketing, strikes and demonstrations, except that this provision shall not be construed to prohibit the training of attorneys necessary to prepare them to provide legal assistance to eligible clients. The Senate amendment had a similar provision with the following exception: the word "illegal" is inserted before "boycotts, picketing, strikes, or demonstrations" and "encouraging" or "encourage can not be construed to include the provision of legal advice and representation by an attorney as an attorney for any eligible client with respect to such client's legal rights and responsibilities. The Senate recedes with an amendment clarifying the House exception especially with regard to training of attorneys and paralegal personnel.

The House bill prohibited the Corporation from providing funds to organize, to assist to organize or to encourage to organize or to plan for the creation or formation or structuring of any organizations except for the provision of appropriate legal assistance as in accordance with guidelines promulgated by the Corporation. The Senate amendment contained a similar provision with the substitution of the following exception: except for the provision of legal advice and representation by an attorney as an attorney for any eligible client with respect to such client's legal rights and responsibilities. The Senate recedes with an amendment striking out "appropriate" and inserting "to eligible clients" with respect to legal assistance. The conferees intend that guidelines promulgated by the Corporation would be consistent with attorney's professional responsibilities.

The House bill prohibited the Corporation from providing funds to provide legal assistance to any person under 18 years of age without the written request of one of such person's parents or guardians or any court of competent jurisdiction except in child abuse cases, custody proceedings, and PINS proceedings. The Senate amendment prohibited providing legal assistance to any unemancipated person of less than 18 years of age except with the (1) written request of one of such person's parents or guardians, (2) upon the request of a court of competent jurisdiction, (3) in child abuse cases, custody proceedings. PINS proceedings, or cases involving the initiation, continuation, or conditions of institutionalization, (4) where such assistance is necessary for the protection of such persons for securing or preventing the loss of benefits or services to which the person is legally entitled, (5) in other cases pursuant to criteria which the Board shall prescribe for these persons. The House recedes with an amendment deleting the fifth category and amending the fourth category to include the "imposition of services" and by adding at the end "in cases not involving the child's parent or guardian as a defendant or respondent".

The House bill prohibited the Corporation from providing funds to provide legal assistance with respect to any proceeding or litigation relating to desegregation of any school or school system. The Senate amendment contained no comparable provision. The Senate recedes with an amendment inserting "elementary or secondary" before school or school system.

The House bill and the Senate amendment prohibited the use of Corporation funds with respect to any proceeding or litigation which seeks to procure or compel the performance of an abortion contrary to individual or institutional religious or moral beliefs. The House bill described an abortion as a "nontherapeutic" abortion. In the Senate amendment the description is "an abortion, unless the same be necessary to save the life of the mother". The Senate recedes.

The House bill prohibited the use of corporate funds to provide assistance with respect to any proceeding or litigation relating to the desegregation of any institution of higher education. The Senate amendment contained no comparable provision. The House recedes.

The House bill required that two-thirds of the governing body of a recipient be lawyers who are members of the bar of a State in which assistance is to be provided. The Senate amendment required a majority of the Board to be lawyers of such a State. The Senate recedes with an amendment requiring that the governing Board be at least 60% lawyers.

The House bill allowed a waiver of the above requirement pursuant to regulations issued by the Corporation for recipients which serve a population unable to meet this requirement. The Senate amendment provided a mandatory waiver for programs currently supported under the Economic Opportunity Act which do not meet this requirement on the date of enactment, and a discretionary waiver for cause shown. The conference agreement combines both provisions.

The Senate amendment required the governing board of recipients to include an appropriate number of eligible clients. The House bill contained no comparable provision. The House recedes with an amendment requiring at least one individual eligible to be a client be on the governing board.

The House bill provided that lawyers shall not, while serving on a governing body, receive compensation from a recipient or the Corporation from any other source. The Senate amendment provided that members of the governing body shall not, while serving on such body, receive compensation from a recipient. The House recedes. It is the intent of the conferees that compensation does not include reimbursement of reasonable expenses.

The House bill and the Senate amendment required the Corporation to monitor and evaluate programs supported under the title to insure that the bylaws and guidelines of the title are carried out. The Senate amendment required the Corporation to provide for independent evaluations of programs supported under the title to insure that bylaws and regulations are carried out. The House recedes.

The House bill authorized the president of the Corporation to enter into contracts and make grants in the name of the Corporation and required the Board to review and approve any grant or contract entered into with a State or local government prior to such approval by the president. The Senate amendment authorized the president to make grants and contracts pursuant to this title. The House recedes in view of the requirement that the Board make a special determination included in section 1006(a)(1)(A)(ii).

The House bill authorizes the Corporation to establish other classes of grants or contracts that must be reviewed prior to approval by the president. The Senate amendment contained no comparable provision. The House recedes.

The House bill required the Corporation to notify the Governor and the Bar Association of the State where legal assistance will be offered thirty days prior to the approval of the grant. The Senate amendment required comparable notification with respect to Corporation-run activities as well as grants or contracts and also required public announcement of all such activities. The House bill had no such requirements. The House recedes.

The House bill required the Corporation to conduct a study of alternative methods of delivery of legal assistance to eligible clients. The Senate amendment required the Corporation to provide for comprehensive, independent study of the existing staff attorney program under the Economic Opportunity Act and, through the use of appropriate demonstration projects, to study alternative and supplemental methods of delivery of legal services to eligible clients. The House recedes.

The House bill required the Corporation to report to the President and the Congress on or before June 30, 1974, and to make recommendations concerning improvements, changes, or alternative methods for, the delivery of legal assistance. The Senate amendment required the Corporation to report to the President and the Congress not later than two years after the first meeting of the Board, and specifically required the report to include a discussion of the economy and effectiveness of changes in the delivery of services. The House recedes.

Both the House bill and the Senate amendment authorized the Corporation to prescribe the keeping of records with respect to funds provided and insure access to such records at reasonable times for assuring compliance with the grant or contract. The Senate amendment specified that compliance may also be with respect to the terms and conditions upon which financial assistance was rendered. The House bill contained no comparable provision. The House recedes.

Both the House bill and the Senate amendment required evaluation reports to be maintained in the principal office of the Corporation for a period of 5 years and that such reports shall be available for inspection by the general public. The Senate amendment further required that copies of any reports filed with the Corporation shall also be submitted upon a timely basis to the grantee, contractor, or entity upon which the evaluation was performed. The House recedes.

The House bill required the Corporation to afford notice and opportunity for comment to all interested parties prior to issuing rules, regulations, and guidelines, and further required the Corporation to publish in the Federal Register on a timely basis all of its bylaws, rules, regulations, and guidelines. The Senate amendment contained a similar provision regarding notice but required publication in the Federal Register 30 days prior to the effective date of rules, regulations, guidelines, instructions, and application forms. The Senate recedes with an amendment requiring publication in the Federal Register 30 days prior to the effective date of such rules, regulations, guidelines, and instructions.

Both the House bill and the Senate amendment required annual audits of the Corporation. The House bill (1) required such audits to be conducted by independent certified public accountants who are authorized to conduct such audits in the jurisdiction in which the audit is undertaken, (2) provided access to the necessary records to conduct such audit, and (3) provided that the annual audit must be filed with the General Accounting Office. The Senate recedes.

The Senate amendment required the GAO to conduct an audit and such report shall be submitted to the Congress and the President. The House bill specified that the GAO may audit, and, if such audit is performed, such report shall be submitted to the Congress and the President. The Senate recedes with certain technical amendments.

Both the House bill and the Senate amendment provide that nothing in this subsection shall give either the Corporation or the Comptroller General access to any reports or records subject to the attorney-client privilege. The Senate amendment extended this prohibition to the records and reports section. The House bill contained no comparable provision. The House recedes.

The House bill authorized the appropriations of such sums as may be necessary to carry out the activities of the Corporation until dissolved (June 30, 1978). The Senate amendment authorized the appropriation of $71.5 million for F.Y. 1974, $90 million for F.Y. 1975, and $100 million for F.Y. 1976. The conference agreement authorizes the appropriation of $90 million for F.Y. 1975, $100 million for F.Y. 1976 and such sums as may be necessary for F.Y. 1977.

The House bill made the first appropriation available to the "Board" at any time after the six or more members have been appointed and qualified. The Senate amendment made the first appropriation available to the "Corporation" after six or more members have been appointed and qualified. The House recedes.

The Senate amendment provided that subsequent appropriations shall be available for not more than 2 fiscal years, and that any subsequent appropriation for more than 1 year shall be paid to the Corporation in annual installments at the beginning of each fiscal year. The House bill contained no comparable provision. The House recedes with perfecting amendments.

The House bill and the Senate amendment both required the Corporation and recipients to account for, separately, any non-Federal funds.

The House bill prohibited the expenditure by recipients of such non-Federal funds for a purpose prohibited by the title but also provided that this provision shall not be construed to make it impossible to contract with or make other arrangements with private attorneys or private law firms, or with legal aid societies which have separate public defender programs. The Senate amendment contained no comparable provision. The conference agreement provides that funds received by any recipient from a source other than the Corporation for the provision of legal assistance shall not be expended by such recipients for any purpose prohibited by the title, except that this provision shall not be construed in such a manner as to prevent recipients from receiving other public funds or tribal funds (including foundation funds benefiting Indians or Indian tribes) and expending them in accordance with the purposes for which they are provided, or to prevent contracting or making other arrangemments with private attorneys, private law firms, or other State or local entities of attorneys, or with legal aid societies having separate public defender programs, for the provision of legal assistance to eligible clients under the title.

The House bill provided that effective on the date of enactment the Secretary of HEW shall take such actions as he deems necessary including the provision of financial assistance to (1) assist the Corporation in preparing its initial undertaking, and (2) to assist recipients in the provision of legal assistance until 90 days after the date of the first meeting of the Board of Directors.

The Senate amendment provided that the Director of the Office of Economic Opportunity shall take such action as necessary, in cooperation with the president of the Corporation, to arrange for orderly continuation of legal services programs assisted pursuant to the Economic Opportunity Act, and that the Director of the Office of Economic Opportunity shall assure that any grant or contract that will extend beyond 6 months after the date of enactment of the Act shall include a provision to assure that obligations to provide financial assistance may be assumed by the Corporation. The conference agreement combines both provisions.

The Senate amendment specified procedural requirements to insure that (1) financial assistance not be suspended unless the recipient has been given reasonable notice and opportunity to show cause why such action should not be taken, and (2) financial assistance shall not be terminated or an application for refunding shall not be denied and a suspension of assistance shall not con-

tinue longer than 30 days, unless the recipient has been afforded reasonable notice and opportunity for a timely, full, and fair hearing. The House bill provisions relating to porcedural requirements are discussed above. The House recedes.

The Senate amendment provided that the President may direct that particular support functions of the Federal Government, such as GSA, FTS, and other similar facilities, be utilized by the Corporation and its recipients. The House bill contained no comparable provision. The conference agreement allows the President at his discretion to make available support functions of the Federal Government to the Corporation for it to use to carry out the purposes of the title.

The Senate amendment contained a severability clause as to the invalidity of any provisions or any applications of this Act. The House bill contained no comparable provisions. The Senate recedes. The conferees understand that such a provision has been rendered superflous by court decisions.

The House bill authorized the appropriation of such sums as may be necessary for transitional purposes during fiscal year 1974. The Senate amendment contained no comparable provision. The Senate recedes with a conforming amendment.

The Senate amendment added a new section to title VI of the Economic Opportunity Act providing that no authority in the Economic Opportunity Act shall be construed to affect the power of the Corporation unless such authority specifically refers to the Corporation. The House bill contained no comparable provision. The House recedes.

The Senate amendment amended the title of the House-passed bill to reflect the fact that the Senate amendment is an amendment to the Economic Opportunity Act. The House recedes.

(End of Joint Explanatory Statement)

ADDENDUM EXPLAINING EFFECT OF HOUSE AND SENATE ACTION ON BACK-UP CENTERS

The House bill authorized the Corporation to undertake directly (not by grant or contract) research, training, and technical assistance, and clearinghouse activities. The Senate amendment allowed a similar list of activities to be carried on either directly or by grant or contract. The Senate recedes.

The research, training and technical assistance, and information clearinghouse functions authorized by this provision are of utmost importance for the continuation of high quality legal services. Such functions include clinical legal education and training in the area of paraprofessional personnel, as well as similar activities designed to harness resources of legal education and the organized bar to improve the quality and effectiveness of the provision of legal services to the poor and to ensure opportunities for minority and poor persons to engage in legal services programs and in the legal profession and related professional and paraprofessional work.

Mr. ABOUREZK. Mr. President, 3 years ago, President Nixon proposed the establishment of a Legal Services Corporation. In making this proposal, the President stated:

The crux of the [Legal Services] program . . . remains in the neighborhood law office. Here each day the old, the unemployed, the underprivileged, and the largely forgotten people of our nation may seek help. Perhaps it is an eviction, a marital conflict, repossession of a car, of misunderstanding over a welfare check—each problem may have a legal solution. These are small claims in the nation's eye, but they loom large in the hearts and lives of poor Americans.

For the past 3 years, the Congress has worked hard to prepare a bill that would provide legal services to the poor, thereby providing legal remedies for the types of problems mentioned by the President. In 1971, Congress passed a bill that would have established a Legal Services Corporation, but that bill was vetoed because the President wanted to retain the right to appoint the Corporation's board members. Now a new bill is before us that accedes to the President's wishes and that establishes a program along the lines that the President proposed.

This bill, therefore, represents a substantial compromise. It assures that first-rate quality legal services will be provided to the poor and it assures that the President can appoint members of the Corporation's board. The bill also represents a substantial compromise by the Senate to a far more restrictive bill passed by the House. Despite these compromises, and maybe because of them, we now have a bill that can and should be supported by everyone.

The most recent compromise on the back-up services of the program indicates how flexible the Senate has been in trying to reach an accommodation on this bill with the President and others. Under this compromise, clearinghouse of information, training, technical assistance and research services will now be undertaken by the Corporation. This is a change from the present system of providing such services through university-based centers. This compromise, however, does not alter in any way the provision of legal assistance. Legal services offices serving local, State and national clienteles—whether such offices were established for general representation or established for specialized representation on complex matters—will continue to provide high-quality legal services. Thus, the compromise has satisfied the President while it has permitted the Corporation to establish an effective legal services program.

Bar association leaders from around the country have strongly supported this bill. Editorials in most of the Nation's major newspapers have been solidly in favor of the bill's passage. Local officials—such as Governors, mayors, and county representatives—have heartily endorsed the bill. Indeed, half the Governors in the country—including the Governor from my State of South Dakota—have signed telegrams urging us to pass the bill currently before us. Clearly, then, this program has the support of responsible public officials and the general citizenry throughout the country.

I urge all my colleagues to pass this bill and I am hopeful that the President will quickly sign it. In these days of common concern about the quality of justice in America, we must make sure that no one is excluded from our judicial process solely as a result of inadequate funds. The establishment of the Legal Services Corporation as set forth in our bill will demonstrate, once again, that our system of justice remains vibrant and strong.

Mr. CRANSTON. Mr. President, I rise in opposition to the totally unjustifiable HELM's amendments and in support of the bill establishing the Legal Services Corporation since that bill will help to assure that justice in our country is not based on a person's financial resources. This bill will asure poor people that they, too, have access to equal justice under the law. Thus, this bill is of extraordinary importance.

Insofar as the task of the conferees was to establish a high-quality program while assuring that potential program abuses are eliminated, it is important that we carefully consider the bill's provisions. In so doing, it will become apparent that the compromises that were reached under this bill were carefully considered and carefully crafted. There was a delicate balance worked out by the conferees with careful consideration of different views and approaches, but this balance should produce a very workable set of mandates and constraints.

Pursuant to the President's request, we have established the Corporation so that the President can select its Board of Directors. This provision marks a major concession that we have made to the administration. However, in selecting Corporation Board Members for our approval, we expect that the President will select eminent persons of distinction and leadership from the organized bar and persons with a background in legal aid work, as well as members of the legal services, client, and minority communities. This would provide the Corporation with the esteem experience, and responsiveness that it deserves.

We have agreed to a provision proposed by the President—providing for State advisory councils. These councils' sole responsibility will be to notify the Corporation of any apparent violations of the Corporation's statutory provisions. Although these State advisory councils will have no adjudication responsibilities when apparent violations are detected, their notification responsibilities will be of substantial service to the Corporation. Any meetings of the State advisory councils and any other advisory councils are required to be open to the general public, and our bill assures that all proceedings which follow a State advisory council's notifications will be carried out in a way that fully protects recipients' and employees' due process rights.

In discussing these State advisory councils, it is appropriate to mention that even though we did not require that a national advisory council be established, all of us recognized that such a council would be most valuable to the continued functioning of the Corporation and should be continued as in the past. The corporation has full authority to do so.

The Corporation and its personnel will not be controlled by Federal officers and employees but, instead, will be an independent entity. This is the critical reason for establishing the Corporation and, in so doing, we are assuring that the program will be fully and properly insulated from political pressures. To make this point clear, our bill guarantees that "officers and employees of the Corporation shall not be considered officers and em-

ployees, and the Corporation shall not be considered a department, agency, or instrumentality, of the Federal Government." In the same way, neither the Civil Service Commission nor the Office of Management and Budget will retain any control over Corporation personnel or position allocations.

Under the bill we have before us today, legal assistance programs throughout the country will continue to be funded to carry out the legal services effort for the poor. Among the recipients that can be funded through the Corporation are individuals, partnerships, firms, corporations, and nonprofit organizations. In addition, but under only the most extraordinary circumstances, State and local governments can be utilized to arrange for legal services programs. Funding through State and local governments is permissible only if no other class of recipient is reasonably available since such governmental entities are, by their very nature, political and our aim is to take this program out of politics.

Moreover, much of the work of legal services offices requires them to be advocates for their poverty clients with respect to State and local government programs, thus raising a serious conflict-of-interest problem where those governments are concerned. Thus, a special finding must be made by the Corporation's Board that no direct recipient could competently do the legal services work in a particular area before a legal services program can be funded through a State or local governmental entity. In essence, the conferees believe that the current class of recipients, as funded under the program carried out within OEO, is the group that can best and thus should continue to provide quality legal services to the poor.

In order to study the best way of providing legal services for the poor, we have asked the Corporation to provide us with a report concerning various possible alternative methods of legal services delivery—such as staff attorney, judicare, vouchers, prepaid legal insurance and the like. This study should be submitted to us within 2 years after the Corporation's Board has its first meeting. Prior to the submission of this report, and prior to congressional action based on our examination of the report, it is expected that the current type of recipients will continue to be funded. A shift from the current type of legal services delivery programs is not contemplated prior to our action on the Corporation's report.

One change—which I deeply regret, as I said on the floor a week ago—has been made in the Conference report since its filing. That change transfers control of the backup functions—consisting of reesearch, training, technical assistance, and clearinghouse of information relating directly to the delivery of legal assistance—from university-based centers to the Corporation. Thus, while these backup service functions are fully authorized and expected to continue, they will be handled through the Corporation and not run by outside grantees or contractees. It is absolutely preposterous to delete authority to undertake these vital functions, as is proposed by the HELMS' amendment.

This compromise passed by the House should not prevent the legal services offices from providing excellent legal services on a statewide or other geographical basis to the poor throughout the Nation. Of course no transfer to the Corporation of direct legal assistance activities for eligible clients is contemplated by this compromise since the Corporation, pursuant to section 1006(c)(1) in the bill, is not permitted to litigate in behalf of clients—other than for itself. Legal assistance activities will continue to be handled by legal services offices established to provide services directly to clients.

The Corporation is expected to continue the backup services without interruption. Until the Corporation is ready to assume these functions, which—because of difficulties in analyzing existing resources, formulating plans, selecting, hiring, and training qualified personnel and consultants and starting up operations—should take at least several months after the Corporation takes over the legal services program, it is expected that the backup work of the current centers will continue under section 3 of the bill. But, when the Corporation is ready to perform these services, they will be undertaken by the Corporation. Of course, in so doing, the Corporation will have the flexibility to perform these complicated services in the manner most appropriate to the needs they fill. For example, the Corporation will have to decide how much of these functions should be centralized in Washington and how much operated through Corporation offices in different locations around the country.

It is truly unfortunate that the Congress was forced into precluding the Corporation from making new grants or contracts to continue the outstanding work performed by the backup centers in the various areas of poverty law insofar as they were providing research, training, clearinghouse functions, and other technical assistance to help the local poverty lawyers in litigating complex cases. It is difficult to see how the Corporation will be able to attract the kind of full-time expert staff necessary to provide model briefs, caselaw training, case analyses and reports, interpretive summaries of frequently litigated regulations and laws, and other technical aids relating to the conduct of litigation which backup centers have provided, because the Corporation itself is prohibited from directly engaging in litigation. Thus, the Corporation will either have to give its recipients the additional resources necessary to obtain these services; or it will have to procure them for itself and then provide the product to legal assistance offices as part of its in-house efforts to provide the research, training and technical assistance, and clearinghouse functions relating directly to the various areas of poverty litigation now provided by the litigating backup centers, but which section 1006(a)(3) would transfer to Corporation control once existing grants and contracts expire.

Of course, the Corporation would not have this problem with regard to acquiring the necessary expertise in such management areas as project director training, board training, planning procedures, office supervision, office paperwork control, ethical supervision, personnel practices, and other assistance in techniques of management and administration, because these are not concerned with the direct delivery of legal assistance by the litigating lawyers within the meaning and intent of section 1006(a)(3). The Corporation can thus make new grants or contracts to continue these services in carrying out the purposes and provisions of the act.

The conference bill places several restrictions and safeguards on the activities of legal services attorneys. As set forth specifically in the legislation, limitations would be placed on attorneys in programs receiving grants from the Corporation with regard to initiating certain cases. Of course, these limitations are not intended to interfere with such attorneys' continuing responsibilities on suits already in progress.

Before class actions, class appeals and class action amicus curiae proceedings are brought, legal services attorneys will need to obtain the approval of their local project staff directors. In addition, recipients will have to develop guidelines for review within the program of appeals by program attorneys or decisions not to appeal adverse decision, so as to give them the benefit of reviewing their appeal decisions with other knowledgeable attorneys. These provisions were not intended to interfere with the attorney-client relationship.

On these vital matters, Mr. President, the Corporation is not permitted, in any way, to interfere in the decisionmaking process as to whether actions should be pursued These provisions were designed merely to encourage recipients and their attorneys to consider the most efficient and effective ways of representing their client communities and of utilizing their legal resources, including the taking of appeals where appropriate to settle large numbers of similar cases at once. Indeed, since it appears that class action proceedings are frequently most efficient, it is expected that such actions will be actively encouraged in appropriate cases to prevent waste of limited resources which would result from duplicative or repetitive litigation. Of course—and I stress again—nothing in this bill sanctions any interference in the crucial attorney-client relationship. The bill is explicit on that in section 1006(b)(3).

The bill also insures that attorneys in the program will be prevented from persistently inciting litigation in an unethical manner. This requirement, however, is not intended to inhibit attorneys from fulfilling their responsibilities to their clients to initiate whatever litigation is in their clients' interests or from providing education as to legal rights and responsibilities as all lawyers are encouraged to do. The bill merely prevents that persistent incitement of litigation which

would be violative of the Canons of Ethics and the Code of Professional Responsibility.

The bill does not permit the filing of fee-generating cases "except in accordance with guidelines promulgated by the Corporation." Such guidelines should assure that poor people have complete access to the courts. Thus, if particular fee-generating cases are not accepted by private attorneys in the area, or if because of special circumstances such fee-generating cases can only be handled fairly and competently by legal services attorneys particularly equipped to protect local clients, such cases should be permitted by the Board to be handled by recipients and their attorneys. Moreover, the general constraints on accepting ordinary fee-generating cases do not, in any way, prohibit legal services attorneys from obtaining damages for their clients or from obtaining attorneys fees and costs awarded upon the discretion of the relevant court or pursuant to statutes designed to encourage suits or deter certain activity, in part by awarding such fees.

The bill prohibits legal services attorneys from filing cases on behalf of any unemancipated minor under 18 years of age. Four exceptions to this rule, however, are set forth in the bill: First, if the suit is filed pursuant to a written request of the child's parents or guardians; or second, if a request is made by a court of competent jurisdiction; or third, in child abuse cases, custody proceedings, PINS proceedings, or cases involving the initiation, continuation, or conditions of a child's institutionalization; or fourth, whenever it is necessary for the protection of the unemancipated minor in order to secure, or prevent the loss of, benefits, or to secure, or prevent the loss or imposition of, services under law in cases not involving the child's parent or guardian as a defendant or respondent.

Of these four exceptions, the last one requires the greatest amplification. In our creation of this exception, we intended to make sure that unemancipated minors would be able to legally protect themselves so that they can obtain all benefits and services that are available to them pursuant to constitutional, statutory, regulatory, and decisional law, whether such legal rights emanate from Federal, State or local sources. Unemancipated minors, therefore, will be enabled to protect their rights under the law. Only when litigation protecting minors' rights to services and benefits requires a lawsuit to be filed directly against minor's parents or guardians, then such suits cannot be handled by legal services attorneys. In this regard, it is important to note that when we referred to a "child's parent or guardian as a defendant or respondent," we only meant individual parents or guardians, not institutional ones acting as guardians like the State or some other entity or official thereof. Moreover, by referring to proceedings in which such individual parents or guardians are defendants or respondents, we meant only to preclude legal services offices from filing suits which, at the outset, are formally against unemancipated minor's parents and guardians. If such an individual guardian or parent under court rule or statute must later be joined as a party, or is brought into the case as a codefendant by the original defendant, that certainly would not bring the case within the prohibition and thus require the legal services attorney to withdraw. Nothing in this section, therefore, should be construed to eliminate a juvenile representation program as such. There is an enormous amount of juvenile representation to be done by the program.

With regard to who is eligible for legal assistance, it should be noted that the Corporation, after proper consultation with the Director of the Office of Management and Budget and the Governors of the various States, will establish indigency eligibility criteria. Once those standards are set, individuals who fulfill the Corporation's standards, and organizations substantially composed of such eligible individuals, will be fully entitled to legal representation. In devising the standards and methodology for applying those standards, the Corporation should be most concerned about insuring that a good relationship can immediately be established between the attorney and client. Therefore, simple, self-declaratory application forms should be utilized and the statement of the client should ordinarily be accepted by the recipient. Moreover, a mechanism should be established within each program so that a client can appeal any decision denying his eligibility for legal services.

Under the conference bill, legislative and administrative representation has been prohibited except when done in behalf of an eligible individual or group, and except when representations are made following a request by a legislator, a legislative committee, or an authoritative official of an agency or executive department, or some other governmental entity. These two exceptions to the rule are very important and I would like to explain them at this time.

Under the first exception, we tried to make sure that recipients and their employees will be unable to subvert this program so that it reflects merely their personal ideologies and goals. Therefore, legislative, administrative and executive representation is completely permissible as long as it is done in behalf of an individual or group client. Under this exception, those recipients and attorneys which generally represent an eligible group—such as an economic cooperative, or an impoverished senior citizens group, or a poor people's civic organization—may represent them before legislative and administrative bodies on issues that are of important consequence to such group.

In so doing, it should be clear that the attorney is permitted to provide the full complement of legal representation for his client, including testifying, drafting proposed legislation, commenting on proposed legislation and regulations, working with legislative committees, and the like. In short, representation for the client, and not for the attorney's pet causes, is what is permitted and encouraged by this bill. They may and should, of course, fully inform potential clients, and the groups they represent, about their legal rights, and the legal services available to them; if such persons or groups then request legal aid, then the attorneys may represent them before judicial, legislative, executive, and administrative bodies.

Under the second exception, representation and advocacy of positions are permitted if such representation and advocacy are made pursuant to a request by a legislative or administrative official.

Therefore, if an official or member of a legislative body requests that representations be made by a recipient, personnel of the recipient are fully authorized to advocate positions and make representations to the legislature. If an authoritative official of an administrative or executive agency requests that representations be made to the agency, then personnel of the relevant recipient can make such representations. If proposed regulations are published in the Federal Register and requests therein are made for comment on such proposed regulations, then recipients and their personnel will be permitted to comment. By setting forth the second exception to the general rule, therefore, it should be understood that we sought to keep the Legal Services program responsive to the informational needs of Government representatives and officials.

The conference bill also adopts the House provision that mandates recipients, when hiring staff attorneys, to grant a "preference to qualified persons" residing in the general area to be served. In applying this provision, it should be clear that preference is to be given only to persons who have been deemed to be qualified pursuant to standards established by the recipient. Thus, each recipient will establish the criteria by which it will determine who is most qualified for staff attorney positions. If, after the competence factors have been weighed as between prospective candidates for staff attorney positions, applicants are evenly qualified, the bill provides that a preference in hiring should be established for attorneys residing in the area to be served by the legal services program.

Under the bill, costs and fees may—in general conformity with State law, procedure, and court rules of general applicability—be collected against the Corporation by a victorious defendant who was unsuccessfully sued by a recipient—where the court makes an express finding that the action was commenced or pursued for the sole purpose—and I stress "sole purpose"—of harassing a defendant or that the recipient in representing a plaintiff maliciously abused legal process. Since such an expressed finding would entail a finding that the attorney violated the Canons of Ethics and the Code of Professional Responsibility, any such award of fees and costs to defendants should certainly be rare. When such a finding is made, however, the Corporation will be responsible

for paying the fees and costs, and such fees and costs are not to be taxed against recipients or their employees.

It is our hope that the fees and costs provisions will induce a responsible use of the court system in compliance with the canons and code. It should be noted in this context that, while the bill permits fees and costs to be taxed against the Corporation only under the specific instances set forth in section 1006(f), a recipient—as I mentioned earlier—is not restricted in any way by this bill from obtaining reasonable fees and costs if a successful legal action is brought by such a recipient. Under numerous legal decisions, fees and costs have been awarded to plaintiffs when they proceeded as "private attorneys general" and in other instances, and this bill does not prevent such fees and costs from being awarded to recipients upon the discretionary judgment of a court.

In order to make sure that the program improves the provision of legal services to the poor, we have made sure that adequate legal training programs are developed. Although such training efforts may not advocate for, or encourage the advocacy of, boycotts, strikes, picketing, demonstrations, and the like, the proper legal training, and the full discussion of legal issues and alternative remedies, is fully permissible. Moreover, such permissible training should also include development and conduct of legal education sessions for community groups living in, or serving, poor communities.

Under the bill, recipients will not be able to use nonpublic funds, granted for providing legal services, for purposes that are prohibited by the legislation. This means that private foundation funds may not be used by a recipient for legal assistance activities that we do not permit that same recipient to engage in with Corporation funds. Exceptions to this rule, however, should be noted. First, it should be made clear that the use of public funds are excluded from this prohibition in section 1010(c) of the bill. Second, funds that are provided for the provision of legal services to Indians, even where those funds come from private foundation sources, are not covered by that section's proscription. And, third, the section permits the contracting and making of other arrangements with private attorneys, law firms, legal aid societies, and the like for the provision of legal assistance.

No grants or contracts can be provided to any private law firm which expends 50 percent or more of its resources and time litigating in the broad interests of a majority of the public. This provision, of course, should not affect any current program grantees nor any other programs that were developed to litigate in behalf of the poor.

Finally, it is hoped that the Corporation will administer the National Legal Services program in an efficient and economical manner. For this reason, we have permitted the Corporation to utilize the services of the GSA and FTS and other Federal Government support functions. It is our strong desire that the use of these economical services will be extended where authorized, to recipients and other program components—especially FTS phone lines between the Corporation and its programs and among programs, so that the nationwide legal services effort operates with the utmost economical care.

In sum, this bill clearly reflects numerous compromises. Although I opposed many of the compromises, on the whole this bill fully merits our support. I, therefore, urge all of my colleagues to vote for the modified conference bill so that we can carry on the task of providing equal justice to the poor of our land.

Mr. President, I ask unanimous consent that there be printed in the RECORD a. the conclusion of my remarks some 50 editorials from major newspapers from around the country, all but one in support of the conference agreement.

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

(See exhibit 1.)

Mr. CRANSTON. In closing, Mr. President, I want to express again my admiration for the most effective work on this legislation by the principal sponsors in this body, the distinguished subcommittee chairman (Mr. NELSON), the Senators from New York (Mr. JAVITS) and Ohio (Mr. TAFT), and my colleagues throughout this fight for acceptable legislation for the last 3½ years, Senators MONDALE and KENNEDY.

Mr. President, as we consider this legislation and prepare to send it to the President for his promised signature, it is most appropriate that we note with genuine sorrow the firing as the Director of the Office of Economic Opportunity of Alvin J. Arnett. Had it not been for the extremely courageous and effective leadership of Al Arnett and his principal aides, the Legal Services program would not be in the decent condition we now find so that an effective transition to a Legal Services Corporation is now possible.

Mr. President, it seems particularly tragic that effective leadership for the poverty program should have to be sacrificed to those who have always stanchly opposed the program and wished to dismantle it at a time when we are attempting to provide a statutory mechanism to insure equal justice for the poor under law. The poor and the near-poor in our Nation—tens of millions of individuals—owe a great debt of gratitude and high regard to Alvin Arnett for what he has done during the last year at OEO. I personally respect his performance and recognize that in many respects his contributions to the poverty program have been as significant as those of any OEO Director, despite his short tenure in office.

EXHIBIT 1

[From the Fresno (Calif.) Bee, May 15, 1974]

LEGAL SERVICES BILL IS FAIR COMPROMISE ON AID TO POOR

After a long and tortured legislative journey from the floor of the House of Representatives, where it was mangled last year, the legal services bill, approved by the Senate earlier this session, has cleared the House-Senate Conference Committee.

Those who wanted a strong, independent legal services corporation to furnish legal aid to the poor may be disappointed by the House-Senate compromise.

It is not a perfect bill but it is an acceptable one. Moreover, it represents an honest effort by the House and Senate to work out legislation which would satisfy the legal representation needs of the poor and also assure the President would retain some control over a program which has been highly controversial in the past.

First, the bill would take the legal services for the poor out of the crumbling Office of Economic Opportunity and create a new public corporation, under 11 directors, all appointed by the President and subject to confirmation by the Senate. This would give the program a new life.

Second, the compromise measure would retain the back-up centers for legal research—a vital resource system for the program. Research on certain aspects of poverty law, such as landlord-tenant relationships, would continue.

Third, the bill's chief backers, Sens. Jacob K. Javits, R–NY, and Alan Cranston, D–Calif., predict the President will sign it.

The compromise presents supporters of a strong legal services corporation with a choice between an imperfect measure or letting the program die with the remainder of the dismantled poverty program.

Congress should approve the compromise and the President should sign it. To do so would uphold the President's standing commitment to legal services for the poor and his often-made declarations supporting the rule of law and equal justice for all Americans.

[From KABC–TV, Los Angeles, Calif., June 17, 1974]

H.R. 7824: LEGAL SERVICE FOR THE POOR

American taxpayers spent nearly $400,000 last year to defend White House staff members on Watergate-related charges.

At the same time, the Office of Economic Opportunity's legal service program handled an estimated one and a half million cases at an average cost of $50 each. They were civil actions involving poor people who couldn't afford their own attorneys. Program guidelines forbid taking on criminal cases.

Funding for O.E.O. ends this month . . . but a proposal has been made to set up an independent National Legal Services Corporation. The measure, HR 7824, has been approved by the House and is now in the Senate where passage appears probable. However, Governor Reagan, who opposes government legal service for the poor, has wired President Nixon urging veto of the measure.

California Senator Alan Cranston said that the O.E.O. legal services program has helped the poor gain "full participation in our society".

We think the service should be continued. If you agree, we suggest you wire the President asking his support for HR 7824.

I'm John Severino. We'd appreciate your comments.

[From the Los Angeles Times, May 26, 1974]

"THOU SHALT NOTS" FOR THE POOR

The House of Representatives has now passed compromise legislation to establish a federal legal services corporation, and the Senate is expected to follow suit this week. Only the President's signature will then be needed to realize this three-year effort to help the nation's poor.

It is a good thing, making permanent one of the most useful and innovative elements of President Johnson's antipoverty program.

There would be more cause for celebration if the House had not exacted such a high price for compromise with the Senate when the joint conference committee put rival legislation together. The result is such that we are tempted to say that it is better than nothing, and leave it at that.

For it is a grudging extension of legal services to the poor, filled with suspicion, reservation, restriction. A man we know in

poverty law work called our attention to the fact that, apart from the introduction, it is largely a recitation of "thou shalt nots."

It prohibits use of the corporation's funds, for example, in cases involving school segregation, abortion and Selective Service problems. And those who work in the poverty law program are circumscribed by regulations that render them political and civic neuters, on and off the job, with rules that go unreasonably beyond the usual legal restraints on political activity by federal workers.

But at least the program has been kept alive, made permanent, and provided with increased federal support. The bill provides $90 million for next year, $100 million for the following year, compared with the present funding level of $71.5 million. And the Senate conferees won out over the House in preserving federal support for back-up centers that provide the poverty law program with research, support and assistance in a variety of specialists, including laws affecting welfare, education, housing, juveniles, employment, health and senior citizens.

The House vote on May 16 was 227 to 143. The Senate vote, scheduled for Wednesday, is expected to be even more favorable. It will then be for the President to sign the legislation, which seems to meet all of the basic requirements he had set forth in giving his support in the first place.

For all its defects, the legislation stands as a reaffirmation of the national commitment to assure each citizen equal access to justice.

[From the Denver Post, June 7, 1974]

POOR NEED LEGAL SERVICES

A bill in Congress to set up an independent corporation to administer legal services for the poor may be in jeopardy when it reaches the desk of President Nixon.

The President reportedly is considering vetoing the bill because it is too restrictive on the activities of legal services lawyers and because of pressure by some conservative members of Congress.

The legal services bill isn't what it should be, but it is better than no bill, which would mean no legal services system for the poor unless some type of similar program still under the federal bureaucracy were set up.

In the past the legal services program was funded through the Office of Economic Opportunity (OEO), but that funding will cease June 30 as the OEO program is dissolved.

The bill now in Congress first appeared in 1971 when the President proposed consolidating the various types of poverty-law programs into one. He vetoed the legislation that resulted because the President was denied the complete discretion to nominate the corporation's board.

In 1972, Congress proposed the legislation but it died in a conference committee. In May 1973 Nixon again proposed his version, which was adopted by the House after the addition of a number of severe restrictions on attorney activity. The Senate adopted a modified version of the bill, and the effort has now been approved by a conference committee and re-approved by the House. It is awaiting a final Senate vote.

The bill now prohibits legal services lawyers from engaging in litigation about school desegregation, nontherapeutic abortion, the draft, desertion and amnesty, class actions and cases that generate fees. It also prohibits political activity by attorneys and opens the door to the termination of legal services back-up centers, which are resources for litigation in specialized types of cases.

If the bill were to be vetoed by Nixon, the damage to Colorado legal services program would be widely felt. For instance, the Arapahoe County program is entirely funded through OEO, and almost 47 per cent of the funding for Metropolitan Denver Legal Aid Society comes from that source. In addition, in Denver more than half of its funding already is jeopardized with the ending of the Model City program.

A veto at this point would place the burden of legal representation for the poor back on the state courts, a task they aren't economically ready to handle.

On the other hand, the signing of the bill into law will at least continue the program and allow future Congresses to decide if the restrictions against activities by attorneys are in the best interest. The bill should become law.

[From the Rocky Mountain News, June 18, 1974]

A GOOD PROGRAM

Neighborhood legal services for the poor will dry up soon unless Congress approves and President Nixon signs new legislation keeping the program alive.

A bill creating a new legal services corporation is under strong attack by conservatives, who say poverty lawyers spend too much time agitating for political and social reforms.

In fact, such lawyers spend most of their time handling divorce, child custody and housing dispute cases for people who have no other access to legal aid.

This has been one of the more successful antipoverty programs at providing practical help where help is needed.

Yet the program will expire unless new legislation, setting up an 11-member operating board, is approved by the end of the month.

The fear now is that Nixon will veto the legal services bill (which he once supported) in an effort to woo conservative support for his upcoming impeachment battle.

[From The Morning Record, Meriden (Conn.) June 7, 1974]

NO VETO ON LEGAL SERVICES, MR. PRESIDENT

Providing adequate legal services for the needy, long a subject of discussion, is still only an objective rather than an accomplishment after years of discussion and debate. Now, however, a carefully prepared program to this end is available, only to face loss by veto by President Nixon.

The proposed measure (H.R. 7824) provides for a federally funded nonprofit corporation which would succeed the Legal Services Program of the Office of Economic Opportunity. As a compromise measure, H.R. 7824 has the support of the House-Senate Conference Committee and the approval of the conservative American Bar Association which also recommends presidential approval.

Supporters of the measure believe, however, that President Nixon, distracted by Watergate and faced with the possibility of impeachment, may be preparing to veto the bill, perhaps as a concession to a handful of hard core conservatives in the Congress.

A veto of H.R. 7824 would be unfortunate and unfair. No individual should be denied justice for lack of ability to pay a lawyer to prosecute his claim or prepare his defense. This principle has long been recognized in criminal courts where persons accused of crime have access to public defenders. The same concept applies to parties to a civil action if they are unable to pay for legal services. Any provisions for public legal assistance must have appropriate restraints, of course; just such regulations are set forth in H.R. 7824.

In view of the care which has gone into the framing of this measure, and in view of the injustices which it would help to relieve, the measure deserves speedy passage. Persons interested in equal justice before the law could appropriately communicate their concern to the President, urging his approval of H.R. 7824.

How ironical it would be if a President, who is drawing heavily upon Federal funds to pay lawyers in his own defense, were to deny federally funded legal aid to his fellow countrymen who need help.

GUARANTEE OF EQUAL JUSTICE

Legislation to continue the provision of legal services to the poor is in its final stages of passage. The Senate-House conference committee report was accepted by the House of Representatives Thursday by a reassuring vote of 227-143.

The bill had been one of the most bitterly debated measures in the 93rd Congress, precipitating a six week debate in the Senate that was prolonged by a Southern filibuster.

The passage of the bill by the Senate, expected next week, will remove the threat that legal service facilities, such as Legacy, Inc., and TWLAP in Eastern Connecticut, will have to go out of business. These agencies were formerly funded by the ill-fated federal antipoverty program.

The opposition to the legal services programs was symptomatic of a frightening attitude toward the poor. Amendments that were offered to restrict the activities of the legal service agencies seemed to be motivated by an intense desire to deprive a single economic class of the justice that is readily available to other classes of citizens, both individuals and corporations.

They ignore the basic fact that a system of justice offers no justice at all if it gives an unfair advantage to one class of citizens over another. This principle has been recognized consistently by the United States Supreme Court in decisions that have guaranteed representation to the poor in criminal cases. It applies equally in civil litigation, the service whose continuance is at stake in the Legal Services Bill.

Most alarming were the claims of opponents that the government should not assist the poor in actions against state and federal laws.

Somehow, these opponents lose sight of the fact that our entire system of justice is designed to protect the average citizen against the arbitrary actions of government. Without the courts to provide due process of law, any democratic system would quickly collapse into autocracy.

Recognizing this basic principle, the American Bar Association and state associations have been among the most staunch advocates of the legal service program.

Contrasted with their support, however, have been statements of opposition like the one offered by Senator Russell B. Long of Louisiana, who contended that "no one but an idiot would hire a lawyer to sue himself."

Long's error, obvious to a school child, is that the government is not an entity unto itself, but simply an extension of the people, elected to execute the will of the people. Thus, the provision of legal services for the poor is rather a case of the people hiring a lawyer to sue for protection against governmental abuse.

The poor, it is generally acknowledged, also are numbered among the people, despite their financial incapacity. They are, in fact, as much a part of government as is Senator Long.

In fact, most of the services offered to the poor are not against government. They are the routine legal affairs that are common to the lives of all citizens, questions of property rights, wills, estates, divorce, custody, credit and consumer rights. Without such legal service, the poor, victimized by the more fortunate, inevitably become poorer. It is thus a matter of mutual benefit to all that these services be provided.

The bill that is so close to passage is actually a significant improvement in the provision of these services. Once it has been enacted and signed, the nation will have a permanent mechanism for the provision of legal services for the poor, a system that will be

independent of funding of other social service programs, and protected from the changes in the political temper of the Congress.

It is a true demonstration of an American determination that the benefits of democracy belong to all as a matter of right, rather than of charity.

[From the Norwich (Conn.) Bulletin, June 19, 1974]

VICTIMIZING THE POOR

There is no longer any doubt that the issues of Watergate and impeachment will have a serious effect on the conduct of government until such time as both are resolved.

It will not be a consequence of inactivity on the part of a Watergate distracted Congress. The blame will belong solely to an Administration that is playing impeachment politics, a term that has been used by even the most conservative of national columnists.

Three bills of tremendous importance seem to have fallen victim to this brand of political manipulation. Strangely, each of them had been listed by President Nixon as measures of outstanding importance. One, the Land Use Planning bill, has succumbed to the threat of Presidential veto. It was rejected last week. Another, the measure to impose federal controls on indiscriminate strip mining of coal, is expected to suffer the same fate—although it is a major link in our effort toward energy self-sufficiency.

It seems, at present, that the major casualty of impeachment politics will be the bill to set up an independent legal services corporation for the poor, the bill that would guarantee the continuation of such local legal service agencies as Legacy, Inc., which serves the poor in New London County.

This bill, like the others, may be sabotaged because it is opposed by a small conservative block in the U.S. Senate whose votes will be crucial in any impeachment trial of the President. It is acknowledged that President Nixon is assiduously courting the votes of such a bloc so that the Senate cannot muster the two-thirds vote necessary for conviction. It is akin to buying a jury—but, in the context of impeachment, such a strategy is perfectly legal, whatever it may lack in terms of morality.

The fate of the legal services bill is particularly ironic. The bill, which is now the product of a Senate-House conference committee, reflects the thinking of the Administration in almost every respect. It was tailored to be veto proof, even though a great many concessions had to be made in order to bring it to that state. It is still anathema however, to the die hard bloc of conservatives who find it offensive that the poor should be able to enjoy, free of charge, the same quality of legal service as those who are self-sufficient.

It is that question of equality of services that is likely to sabotage the conference committee bill. For the bill provides for the use of poverty law research centers, groups of legally informed people who do the law research that hard pressed poverty lawyers do not have the time or the facilities to perform.

The case of Legacy illustrates the need for such centers. In New London county, a staff of six lawyers is forced to handle over 2,000 cases per year, approximately 350 cases per attorney. It is a staggering load that does not permit for the extensive research into the niceties of the law that are essential to the successful conduct of a case. At present, these lawyers may contact a poverty law research center for help. Such research often makes the crucial difference in the provision of sound legal service for a client.

The conservatives view such research centers as beehives of social activists. In fact, they provide a basic and ordinary function of the legal profession. The bill, as reported by the conference committee, so restricts the social activities of the legal service lawyers that social activism has become an unimportant point.

At present, the legal services for the poor are hanging by the thread of interim financing, renewed periodically at the whim of Congress and a beleaguered President.

The victims however, will be those to whom such services are the only avenue to the American ideal of equal justice.

[From the Washington Post, July 8, 1974]

FINAL PRESSURES ON LEGAL SERVICES

After several years of debate, compromises and strategies, legislation creating an independent Legal Services Corporation is now in the final stages. A Senate-House conference committee has already issued its report, with the House approving it (227–143) and the Senate about to vote. The issue would appear to be fully resolved, now that the conference report has been worked out, and only Senate approval is needed. Yet, as if it were fated to be plagued by the same controversy that has hovered above Legal Services since its beginnings 10 years ago, there are still doubts that the bill will be signed into law.

Doubts exist about President Nixon's intentions. He has already vetoed Legal Services legislation once. Another time, both the Senate and the House passed legislation, but a conference committee, seeing the threat of a veto, allowed the bill to die. In the current effort, care has been taken to create a corporation that would include restrictive provisions the President insisted on, most notably giving the President power to appoint a board of directors and also allowing state governors to appoint advisory committees. A number of other restrictions have been written into the bill, such as one barring the corporation's lawyers from selective service, abortion and certain desegregation cases. These restrictions are unfortunate—depriving the poor of legal opportunities taken for granted by other citizens—but the concessions were made on the notion that it was better to have a Legal Services corporation with at least some powers than to have none at all.

But the situation is still tense. Congress appears ready to present Mr. Nixon with a bill much in line with Mr. Nixon's own thinking, yet the fear of a veto is widely felt. "Impeachment politics" has been mentioned as a cause of a possible veto; another potential cause is the President's long record of indifference to many of the needs and rights of the poor. Previously, it was Spiro Agnew, the former Vice President, and Howard Phillips, formerly of the Office of Economic Opportunity, who made blind attacks against Legal Services. With these opponents now departed from the scene, it is up to the President to decide whether or not to continue this style of opposition. If only ideological questions were involved, the threat of a veto might be understandable. But Congress has been diligent to report a bill that the President himself said he wanted.

Regrettably, much of the debate on Legal Services has overlooked both the generally excellent record of the program and the many benefits it has provided to the poor. If the times were different, we would have a Congress and a President avid to expand the breadth of a program like this, not restrict it. But for now, the struggle is to keep Legal Services alive at least in some form.

[From the Atlanta Constitution, June 3, 1974]

LAWYERS FOR THE POOR

One of the lasting important legacies of the social activism of the 1960s was the strong feeling that the poor receive fair legal representation.

Such legal support was offered many disadvantaged citizens through poverty programs, programs funded by federal money and reaching poor people who had never really had adequate legal help.

For the past three years, a debate has continued in the U.S. Congress and with the Nixon administration on the proper form of a Legal Services Corporation to administer the legal services program previously part of the Office of Economic Opportunity. After considerable controversy, both House and Senate have at last agreed on the terms of setting up such a Legal Services Corporation.

The form is close to that recommended by President Nixon, though there are some changes and some suggestion that the President might consider vetoing the legislation altogether. It is important legislation, significant legislation. The President should sign the bill.

[From the Honolulu Advertiser, May 14, 1974]

LEGAL AID FOR POOR

The legal services bill which has emerged from a House-Senate conference committee is a reasonable compromise that merits enactment.

It would restructure into an independent nonprofit corporation the legal aid program which has operated under the Federal poverty office since 1966.

The Hawaii Legal Services Project, currently with 23 attorneys and six offices in the Islands, would be absorbed into the new corporation.

The aim is to provide legal protection and advice in civil cases. These include disputes over rent, welfare rights, custody, property, housing, divorce and debt.

Congress has battled over this subject for three years. Fortunately, significant restrictions voted in the House have been eliminated by the conference committee.

The compromise bill thus would continue to fund backup research centers at universities, which have contributed valuable assistance to the program here and elsewhere.

In addition, the bill would permit representation before legislative and administrative bodies—though the corporation's lawyers would not be allowed to solicit such cases. The House had voted to prohibit such representation altogether.

Improvements to the program should continue to be sought in years ahead, to eliminate what unwarranted restrictions remain. These include curtailment of desegregation activities.

Meanwhile, however, the compromise bill still could go a long and necessary way toward better ensuring equal justice to all—regardless of ability to pay a lawyer.

[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 services 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. Pressure 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 (Idaho) 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 hobnailed dance on the backs of the poor at the expense of equal justice.

[From the Indianapolis Star, June 10, 1974]

LEGAL SERVICES BILL IS WORTH A TRY

(By James J. Kilpatrick)

The legal services bill that emerged from conference committee a couple of weeks ago is far removed from the simple and straightforward program urged by the President last year. The bill contains several provisions that conservatives view with suspicion. Yet on balance, the measure holds the prospect of much more good than ill. The President should let it become law.

I am aware that many of my brothers in the conservative community disagree strongly with that view. The respected weekly, Human Events, asserts flatly that "Nixon Must Veto Legal Services Corporation." Ohio's John Ashbrook fought skillfully for recommittal of the bill, and lost by only half a dozen votes. I wish he had won.

It is not always true in politics that half a loaf is better than none: The half a loaf may be moldy. But it is generally true that King Compromise rules. He is no bad monarch. In the matter of the legal services bill, neither conservatives nor liberals got all they had hoped for. The question is whether the conference bill is better than no bill. I think it is.

The Congress is concerned here with a fundamental principle of American life. This is the ideal of "equal justice under law." I would suppose that few of my conservative brothers oppose this principle, and I would suppose that few of them believe the principle is now well served. Despite great improvements in recent years, especially in fields of criminal law untouched by the pending bill, the poor are still far removed from "equal justice."

The paramount purpose of a legal services program is to narrow this gap. We live, all of us, like so many flies floundering in a web of laws, rules and regulations. The well-to-do family, equipped by education, income and experience, may be able to cope with these complexities. The poor family, often functionally illiterate or handicapped by barriers of language, is frequently helpless. The President's idea of a proper legal services program was to create an agency that would serve this paramount purpose only—an agency that would limit itself to basic, conventional legal aid.

The new Federal corporation that would be created under this bill would be in a position, of course, to provide such fundamental aid. One hopes the directors, advisory committees, and working attorneys will have sense enough to hew to this line.

Unfortunately, the conference bill wound up with enough deceptive and uncertain language to leave justified apprehensions hanging in the air. The bill takes the form of an amendment to the existing but discredited Economic Opportunity Act; the effect is to give congressional custody of legal services not to the judiciary committees, but to the highly liberal committees on labor and public welfare. The bill continues, though for a limited time, the 13 "back-up centers" whose gaudy activism did so much to subvert the basic purposes of the former program under OEO. There is one provision, hard for me to understand, that may permit participating lawyers to promote social causes under the pretense that they are serving the armband brigades "on their own time." The provision smells fishy.

But there is also much that is good in the conference bill. The Senate receded in conference from some of the language that had set off alarm bells. In its final form, the bill bristles with prohibitions against political activity in the name of legal services. There seem to be abundant safeguards against the fostering of hot-dog radicals out to have a sensational time.

If the President will appoint a good solid board of directors for the Legal Services Corporation, and name the solidest of these appointees as chairman, it should be possible to expurgate the old abuses and get the program off to a constructive start. The venture may fail, but as we love equal justice it is worth a try.

[From WRTV-6, Indianapolis (Ind.), June 13, 1974]

IT'S THE ONLY LEGAL-SERVICES MEASURE WE'VE GOT

After many months of debate, both houses of Congress passed bills setting up an independent government corporation to provide legal services for the poor. But the bills differed greatly.

Then, after several more months of give-and-take, a conference committee succeeded in producing a compromise bill, which the House has approved and the Senate is expected to approve soon.

Now, however, there are strong rumors that President Nixon will veto the bill.

On the surface, it would seem he'd sign the bill without hesitation, since it's a far more conservative bill than the one he originally sent to Congress.

But, apparently, the President is fearful of offending some of the conservatives in Congress, whom he regards as his greatest strength in his fight against impeachment. So, a veto is possible.

We're not very happy with the legal-services bill, because we believe in the ideal of equal justice under the law for all Americans, even *poor* Americans. And this bill greatly restricts the kind of justice a poor person can seek with the help of a legal-services attorney.

It also imposes tight restrictions on the kind of things that legal-services attorneys can do—even on their own time. Tighter restrictions, in fact, than we in Indiana impose on many of our own judges and prosecutors.

Nevertheless, the compromise bill would enable the poor to have the services of competent legal counsel for most types of common civil action. And without this bill, there would be *no* federal help for poor people in need of legal assistance.

Conservative Columnist James J. Kilpatrick said, in endorsing the bill, "Despite great improvements in recent years, especially in fields of criminal law, untouched by the pending bill, the poor are still far removed from equal justice. The paramount purpose of a legal services program is to narrow this gap."

If you agree that this is an objective this nation should pursue, we hope you'll join us in urging President Nixon to sign the legal-services bill when it reaches his desk.

[From the Des Moines Register, June 14, 1974]

LEGAL AID FOR THE POOR

Congress has been struggling since 1971 to create a permanent Legal Services Corporation to operate legal aid programs administered by the Office of Economic Opportunity. The end of the struggle is in sight—provided the President does not veto the Legal Services Corporation Act.

President Nixon in 1971 vetoed one measure to create a corporation to provide legal services for the poor. The President said his chief objection was that he was empowered to name just six of the corporation's 17 governing board members. Congress upheld the veto and went to work to devise a substitute.

Different versions of a revised bill were passed by the House last year and the Senate this year. A conference committee report filed May 13 was approved by the House three days later. The Senate is expected to act soon to send the measure to the President.

The new bill calls for an 11-member governing board to be appointed by the President and confirmed by the Senate. The measure is honeycombed with restrictions to meet the objections of conservatives.

Legal aid lawyers, for example, are barred from providing "legal assistance with respect to any proceeding or litigation relating to the desegregation of any elementary or secondary school or school system." Lawyers for the poor are barred from giving legal assistance "with respect to any proceeding or litigation which seeks to obtain a non-therapeutic abortion" or from representing anyone in connection with a violation of the Selective Service Act.

A host of limitations are placed on the personal activities of legal aid lawyers. Legal services attorneys are barred even from taking part in non-partisan voter registration drives during nonworking hours.

The measure is backed by legal aid supporters, despite the restrictions, in the belief that it provides the best chance for putting federally-financed legal services on a permanent footing. The corporation would provide protection against the efforts now launched annually to scuttle or sharply curtail the nationwide legal aid program.

Fears of a presidential veto are based on the earlier veto and concern that the President may be tempted to play "impeachment politics." The lawmakers most opposed to the legal services program are lawmakers the President may be able to influence on impeachment by catering to them on other issues.

It would be deplorable if the nation's poor were made the innocent victims of Watergate.

[From the Louisville (Ky.) Courier-Journal, July 9, 1974]

WILL MR. NIXON DARE REPUDIATE "LEGAL SERVICES"?

The votes of all four Kentucky and Indiana senators most likely will be cast in favor of creating an independent legal services corporation to serve the poor, when a bill on that subject comes up for consideration tomorrow. Both senators from each state were on the right side on January 31, when the upper chamber finally approved the measure. We hope all four senators will vote tomorrow—when the Senate-House conference report on the bill will be considered—since the highest possible total is needed to discourage a presidential veto.

In the January vote on final passage, Senator Hartke was paired for the bill, and Senator Cook was announced for it. Senators Bayh and Huddleston were on hand to vote "yes." The final count was 69–17 for passage.

According to the Action for Legal Rights lobby in Washington, an even bigger margin is "imperative" this time. Since mid-May White House officials have warned of enormous pressure exerted on the President to veto this bill, and the pressure is supposed to be coming from the very conservative members of Congress on whom Mr. Nixon might depend for survival in an impeachment trial. The President's Domestic Council has had heated debates on this question, almost daily.

BILL ALREADY WEAKENED

The friction within the administration is understandable, since to veto the bill the President would have to repudiate his own past position. Moreover, he would have to desert a compromise arranged for his benefit. The President had refused to sign any bill which wouldn't give him the power to appoint all members of the legal services corporation board, so the bill was rewritten to meet his objection, even at the price of giving the President too much control over the corporation.

The bill ought to be passed in its present form and sent to the President. More weakening simply isn't justified. The bill has been over-compromised to achieve a broad range of support. And the current support is extraordinarily broad, including governors from South Carolina to Massachusetts, bar associations from Arizona to New York and newspapers from Indianapolis to Washington.

If that sort of support out in the country won't convince the President he should sign the bill, maybe the rollcall in the Senate chamber tomorrow will do the trick.

[From the Boston Globe, June 5, 1974]

OF MR. NIXON AND LEGAL AID

In the tradition of the Homestead Law and the Civilian Conservation Corps of other periods, the federally-subsidized legal services program has provided a better shake for millions of poor Americans in the past decade.

In 1973 alone, 500,000 needy Americans benefited from legal representation that almost certainly would have been beyond their means without the Federal support. For many old, infirm and powerless persons, this access to legal counsel stands as their only hope for redress of injustice: an unlawful raise in rent, repossession of a refrigerator, or discharge from a job. But now the Federal program is in jeopardy.

In 1971, President Nixon vetoed legislation to establish an independent, non-profit corporation to oversee the legal services agency. The veto prevented the transfer of the agency outside the jurisdiction of the Office of Economic Opportunity (OEO).

This year, a House-Senate conference committee has reported a compromise version of the bill Mr. Nixon rejected three years ago. The House last month approved the amended bill, but by a vote less than the two-thirds majority necessary to override a presidential veto. Final action on the bill in the Senate is expected this week.

If Mr. Nixon vetoes the bill this year, it almost certainly will mean the demise, as of June 30, of the legal services program, for Congress is proceeding apace with the dismantlement of OEO.

The compromise bill provides for a $190 million, two-year appropriation for legal services. It accords with the President's stipulation—the rationale for his 1971 veto—that he have the authority to appoint all 11 directors of the legal services corporation. As a further concession to conservatives, it would restrict more extensively than its 1971 predecessor the power of legal service attorneys to engage in political activities and litigate controversal cases, such as those involving abortions, racial desegregation and the Selective Service.

The legislation has the support of the American Bar Assn. and the bar associations in numerous states, including Massachusetts. But conservatives, most notably former OEO director Howard Phillips of Danvers, have been pressing Mr. Nixon to veto the bill, even in its diluted form.

The conservative Washington weekly, Human Events, reported that at least one "leading conservative Republican congressman," whose name was not disclosed, threatened that he would vote for Mr. Nixon's impeachment unless the President vetoed the legal services bill.

It would be a travesty if Mr. Nixon yielded to such coercion. Further, it would be particularly irksome for the President to veto a bill providing legal aid to poor people while the American taxpayers are spending untold sums, perhaps in the millions of dollars, for Mr. Nixon's legal defense.

Mr. Nixon should sign the legal services bill when it reaches his desk. Failure to continue the program would not only deepen the disillusion in this country but also would corrode its underpinnings of justice.

[From the Boston Herald American, June 14, 1974]

EQUAL JUSTICE FOR ALL

It is an almost foregone conclusion at this point that Congress will go along with the administration in dismantling the federal Office of Economic Opportunity through which the Great Society's war on poverty was conducted.

But one of the phases of that federal effort to aid the needy—legal services for the poor and disadvantaged—is now given a fair chance of survival after almost four continuous years of controversy.

Recently, the governors of 28 states, the American Bar Ass'n, the heads of 22 state bar associations and a congressional conference committee endorsed the plan to establish an independent, non-profit national corporation to provide proper legal counsel for those who could not otherwise afford it.

House Rule 7824 subsequently has been passed by the House and is expected to be taken up shortly in the Senate. The new corporation would succeed OEO's Legal Services Program which had come under considerable fire because so much of its activity was directed toward the government itself.

But the years of trial and error have compromised different versions to make them more acceptable to all sides in Congress and in the administration. Some of the more controversial elements have been eliminated by absolute prohibitions again such activities as abortion, school desegregation and amnesty cases.

Even with these and other deletions—with which we are inclined to agree—there are still many other legal services that need providing for a great body of the citizenry if all are to receive, in fact, the equal justice under the law to which they are entitled in constitutional theory.

President Nixon has twice submitted messages since 1971 calling for the Legal Services Corporation; and though radical changes proposed by Congress led to threats of White House veto, most of those differences have now been resolved and the chances of passage are brighter now than ever before.

[From the Ann Arbor (Mich.) News, June 27, 1974]

COUNTY LEGAL AID GROUP PERFORMS NEEDED SERVICE

Unless help comes fast, the Washtenaw County Legal Aid Society may be out of business. One moment of truth comes next

Sunday, when Legal Aid's Office of Economic Opportunity funding expires.

Even if Legal Aid gets over that shoal, its future is shaky. President Nixon is threatening to veto legislation which would establish a separate government corporation to operate the legal services program.

The upshot of it all is that President Nixon wants to clean house in OEO. To make a long story short, the legislation he has proposed—a separate corporation to operate legal services—has been compromised with various restrictions during its passage through Congress. The bill in its present form therefore is believed to be unacceptable to the President and he is threatening to veto it.

Politics, impeachment variety, may be behind the veto threat. Nixon needs to keep his strength among congressional conservatives, the very group which is urging him to veto the bill because Legal Aid and OEO are directly tied to "bankrupt" Great Society programs.

But if the veto materializes or if Legal Aid's funding is allowed to expire, the poor of Washtenaw County will be the big losers. At present, about 600 poor persons have court actions pending. With no money and in effect no program, the poor are without the services of lawyers.

Legal aid is a going concern in Washtenaw County. Michael Bixby, Legal Aid director, says that in 1973, the society provided legal advice or assistance to about 3,500 poor persons in the county. Since it was set up eight years ago, Legal Aid has served nearly 20,000 poor persons locally.

Without Legal Aid, the low income individual has no place to turn for the legal services which ought to be every one's right. With Legal Aid, he has "a chance to stand on equal footing" with big interests such as landlords, businesses and government.

It may be that public opinion and pressure will save Legal Aid from going under. There isn't much time left. But if a worthwhile program is to be kept functioning, the voice of protest must carry to Washington and to lower government officials.

[From the Detroit Free Press, June 2, 1974]

SENATE SHOULD PUSH LEGAL AID

The U.S. Senate should run the risk of a presidential veto and pass the compromise bill that would create the National Legal Services Corp. as a new, non-profit agency to provide legal aid for the nation's poor.

The alternative of further weakening the bill is a bad one. But the pressure to do just that has mounted since the House fell short of a veto-proof vote on the measure in mid-May and some congressional opponents carried their arguments to Mr. Nixon.

Proponents of an effective legal program can point to the president's own proposals in 1971 and again in 1973 for support for the plan in its present form. In fact, the bill that finally emerged after a series of amendments in the House of Representatives is weaker than either of those presidential proposals.

Both of Michigan's senators, Philip Hart and Robert Griffin, supported a stronger version of the bill last time it went to a Senate vote. Their suport, when the compromise version comes up soon, would help advise the president of their willingness to fight even a veto in their efforts to assure at least a minimum degree of legal services for the poor within our nation's court system.

[From the Minneapolis Star, June 12, 1974]

RIGHTISTS THREATEN LEGAL SERVICES BILL

(By Austin C. Wehrwein)

Former Chief Justice Warren once said:

"A right without an advocate is as useless as a blueprint without a builder or materials."

Advocacy is a professional service. The more money you've got, the more of it you can obtain. That's where the Legal Services program came in.

In the 10 years since its establishment, the Legal Services program has served more than 1 million clients at the remarkably low and efficient cost of $50 a case.

Its plain purpose is to make it possible for poor people to redress grievances and solve problems within the legal system. It is, philosophically, profoundly conservative.

It attracted bright young lawyers who ignited a national interest in "poverty law." This had a strong impact on not only law school students and professors, but on affluent law firms which contributed time, money and manpower to "pro bono" (public interest) legal activities.

In short, it was one of the most, if not the most, successful parts of the Office of Economic Opportunity (OEO) efforts.

For three years, however, its fate has been in balance, not withstanding support from the American Bar Association, from leaders in both parties, and when he was still in the White House, Melvin Laird. Ritualized opposition from California's Gov. Ronald Reagan could be traced to some actual, if distorted, fears among corporation farm owners. But much of the rather inexplicable opposition is framed in hot but cloudy rhetoric.

For example, Howard Phillips, who heads an organization called "Public Monitor," the ultra-right "answer to Common Cause," told congressmen that the bill was "a menace to your family, community and party. It is undermining the security of our nation."

(Phillips will be recalled as the former acting director of OEO whose ideological tantrums as he blantly tried to tear OEO apart regardless of orderely law were too much even for the White House management experts.)

Hard-core conservatives on Capitol Hill saw legal services legislation as a trading issue: They reportedly demand a veto as one of the bargains for support against impeachment and/or conviction.

The bill's fate has special interests for Minnesotans.

Rep. Al Quie, R-Minn., and Sen. Walter F. Mondale, each in his own way, played important roles in the legislative history. They were, consequently, on the Senate-House conference committee that earlier this month agreed on a compromise measure that would take the program out of the collapsing OEO and put it under a new public corporation.

In mid-May, Quie on the House floor sought to fend off a rightist attack. Quie is the model of a moderate gentleman, not given to invective. But he branded the ideological attack "incredible" for its "misinterpretations, omissions and mistakes . . . wildly distorted . . . almost wholly inaccurate."

"The important fact," Quie said, "is that we have a bill which after three years of work will provide a framework for an effective legal services program for the poor, free from political involvement and hopefully free from most of the controversy that has previously surrounded the program."

The rightist attacks at that point were especially galling because Quie had won concessions from his more liberal friends which he hoped would more than appease the White House.

In any event, as approved, the compromise provides for an independent corporation governed by an 11-member board of directors appointed by the president, and subject to Senate confirmation.

A 1971 bill, which inspired a veto, prevented President Nixon from naming all the directors. The current bill, which passed the House in late May, lets Nixon name them all, though no more than six could be of one party and at least six are to be lawyers.

An appropriation of $90 million in fiscal 1975 and one of $100 million in fiscal 1976 are authorized.

Stringent rules that were retained in the the conference bill include a ban on litigation concerning "nontherapeutic" abortions, school desegregation, or draft or military desertion laws.

There's a curb on lobbying, limiting it only to representation of a particular client who asks for it.

And legal service lawyers are "double Hatched." That is, there is not only the usual Hatch Act ban on partisan political activity, but the lawyers can't even participate in such nonpartisan activity as voter registration campaigns.

What the ideologue faction led by Sen. Jesse Helms, R-N.C., ostensibly finds obnoxious in this most moderate of all versions of the program is retention of research "back-up" centers, pending a two year study of their efficiency. The House conference report said research was of "utmost importance for . . . high quality legal services." Any successful law firm would say "Amen!" to that. It's the difference, often, between good and bum lawyering, precisely the point of even a much-circumscribed Legal Services program.

As Quie said, here is a reasonable bill, free from politics, the result of years of painstaking work and compromise with White House lobbyists like Laird and Leonard Garment.

It deserves expected Senate approval and Nixon's signature. It should not be a victim of irrelevant impeachment politics.

[From the Grand Rapids Press, Grand Rapids, Mich., June 10, 1974]

LEGAL AID NEEDED

Three years ago President Nixon proposed legislation which would move legal services from the Office of Economic Opportunity (OEO) to a nonprofit corporation. The tneory then—as now—was that while numbers of OEO programs were either badly conceived, badly administered or both, the justice involved in providing legal aid to the poor could not be questioned.

Justice notwithstanding, the aid program remains in the crumbling OEO, a victim of congressional sluggishness, White House nitpicking and a hardcore conservative element which is making the most of the President's need to keep it in his Watergate corner.

Mr. Nixon vetoed 1971 legislation on the grounds that it tied his hands on corporation appointees. Similar legislation died in committee in 1972.

A year ago the President again proposed a Legal Services Corp., and eventually H.R. 7824 and S. 2686 were adopted. The bill coming out of the conference, however, has been modified considerably and includes many restrictions which some sponsors feel will gut the legislation but others see as essential in obtaining presidential approval.

Included in the restrictions are prohibitions against taking on school desegregation, amnesty and nontherapeutic abortion cases, all of which are proper legal matters often affecting the poor but which are philosophically opposed by archconservatives.

Even so, a flawed bill in this case undoubtedly is better than no bill at all, and a Senate windup on the compromise version and the President's signature are needed urgently.

Currently caught between the failing OEO and the unresolved nonprofit corporate setup is the Kent County Legal Aid and Defender Association which currently is funded through federal funds and $25,000 from United Fund. Nine fulltime lawyers work for the county group, and about 3,500 cases are received yearly.

The Grand Rapids, Michigan and American bar association have offered unqualified endorsement of the legal services bill. U.S. Sens. Robert Griffin and Philip Hart supported even stronger legislation than now proposed, and it has been backed by 28 governors including William Milliken.

With all of this bipartisan support atop the President's initial request, it would

seem unlikely that bill sponsors would be preparing for a White House veto, but that is the situation. When the latest legal aid proposal fell just short of a veto-proof vote in the House, opponents took their case to the President. Conservatives who have been using their Nixon loyalty to good advantage appear to be trading this issue, too, to force the President to do their bidding.

The idea that Americans who are poor, illiterate and often handicapped by the lack of education and experience receive equal justice is a sham. The organized bar, spurred by canons of ethics and a code of professional responsibility, sees the legal aid corporation as the best way to redress the problem. Right now it may be the only way.

[From the St. Paul Sunday Pioneer Press, June 23, 1974]

LEGAL SERVICES THREATENED

One of the most successful programs to come out of the Office of Economic Opportunity is hanging on the ropes as the end of the government's fiscal year draws near.

The Legal Services program, which has served more than a million people who otherwise could not have afforded legal assistance, could go out of business at the end of this month unless the Senate passes a bill to renew it and President Nixon signs the bill. The House has already approved the bill, which came out of a House-Senate conference committee.

The Legal Services program began 10 years ago when it was recognized that it often costs money to obtain the justice guaranteed in the Constitution and that many Americans couldn't pay the bill. The program has made it possible for poor people to redress grievances and solve problems and the cost has been only about $50 a case. It has caught the imagination of lawyers and law firms and has the backing of the American Bar Association.

Still, the program is in trouble. Some conservatives in Congress are bitterly opposed to Legal Services and have engaged in a name-calling campaign to torpedo the bill. Their attacks have been so unprincipled and illogical that so mild a man as Rep. Al Quie, R.-Minn., was moved to describe them as "incredible," "wildly distorted" and "almost wholly inaccurate."

Quie, who was a member of the conference committee, said on the House floor that the bill "will provide a framework for an effective legal services program for the poor, free from political involvement and hopefully free from most of the controversy that has previously surrounded the program." The bill bans paying attorneys' fees for litigation concerning "nontherapeutic" abortions, school desegregation and draft or military desertion laws as a concession to conservative elements.

Still the conservatives see a chance to kill the bill by playing impeachment politics. If they can persuade the President to veto the bill in exchange for their support on an impeachment vote, the veto probably couldn't be overridden.

Nobody knows what the President will do. But the program has been valuable to the poor and the cost ($90 million would be appropriated in fiscal 1975 and $100 million in fiscal 1976) is moderate in comparison with many other proposals now before the Congress. The Senate should pass the bill promptly and Mr. Nixon should put politics aside and sign it.

[From the Kansas City Times, June 5, 1974]

EVENING THE SCALES OF JUSTICE WITH LEGAL AID

The legal aid bill nearing final action in Congress has been a long time in the making. Even so, it does not stir elation on either side of the political spectrum. Conservatives tend to think the program would promote too much activism at the expense of the federal government. Liberals contend restrictions would unduly limit the lawyers in political activities and the type of cases they could take. Transcending these reactions and arguments, however, is the need for a system that will assure the poor of a fair day in court.

The details must necessarily be worked out. But the basic and important purpose of the legislation is to provide a framework for a legal services program. An independent, publicly financed Legal Services Corporation would be established. The 11 members of the governing board would be appointed by the President, with confirmations by the Senate. That wide presidential authority is a major concession by the legislative branch, an attempt by lawmakers to gain support for legal services.

Other provisions manifest the give and take by members of the House-Senate conference committee that worked out the final version of the measure. Research centers, usually located at universities to study legal problems of the poor will be funded. The Senate wanted them; the House opposed them, arguing they stimulated social activism. Concessions were made to the House on imposition of a total prohibition on political activities by legal aid lawyers. A compromise was also reached on school desegregation cases. The House also won its point on giving preference to local lawyers for legal assistance staffs. Funding provisions tipped toward the Senate.

The corporation would be the successor to the legal aid program of the Office of Economic Opportunity. That undertaking is considered one of the more successful in President Johnson's war on poverty. Literally thousands of poor persons have been provided adequate legal counsel that they could not have otherwise afforded. The program has put new meaning into this country's guarantee of equal justice under the law.

Detractors have complained that some OEO legal aid lawyers delved into social issues rather than the law. This is a judgment and in any event it was not the major thrust of the program.

The larger issue is and must be adequate legal counsel. For too long justice in this country has been based on ability to pay instead of equity. This legislation is absolutely necessary to a court system of fairness.

[From the Lincoln (Nebr.) Sunday Journal and Star, June 2, 1974]

POOR NEED LAWYERS, TOO

While there is something terribly macabre about it, a pound of flesh is a tangible commodity. Not so justice.

That's an intangible, a principle of conduct among men and women. It is also supposed to be what our governmental system is all about, its end objective.

This week, the United States Senate is apt to pass a bill dealing with justice, establishing a federally-assisted Legal Services Corporation. The measure already has cleared the House, 227–143. Rep. Charles Thone of Lincoln was the only Nebraskan voting for the measure and he rates commendation for that action.

Perhaps Thone's past experiences as an attorney and chairman of the Lincoln Human Rights Commission make him more sensitive to the problems of poor people caught up in a legal system designed not for the poor.

What the new corporation would do is cement into existence the legal services program which came to life under the expiring antipoverty enterprise, the Office of Economic Opportunity. Existing legal services absolutely will end if the bill does not clear the Senate. Or is strangled by a presidential veto.

Political conservatives reportedly have demanded that veto, exercising delicious leverage which the presidential impeachment threat strategically gives them. The real test may, therefore, come on a veto override vote.

Conservatives have been angry about the federal legal services operation for years. They've accused the program of fostering a band of young red-hots, using government money to attack—too often successfully—either government programs and restrictive regulations or program administrators. California Gov. Ronald Reagan has been a particularly severe critic.

In rebuttal, lawyers for the poor cite a General Accounting Office study reporting that nationally less than 1% of their cases were in the areas of "law reform" or, really, enforcement of existing laws to secure constitutional or statutory rights.

The Legal Aid Society of Lincoln, Inc., its clientele sharply restricted by a low-income test, has a heavy case load dealing with such topics as bankruptcy, divorce, welfare matters, housing and consumer complaints. The society's budget this year is about $91,000. That's helping provide five lawyers, three secretaries and the associated office support. Local cash help is $11,500.

It would be a real blow to the low-incomed of this community if this service were destroyed in the game of impeachment politics.

What does one say about a society where the quality of justice is measured by the weight of litigant dollars?

[From the Concord (N.H.) Monitor, June 4, 1974]

LEGAL ASSISTANCE ON TENTERHOOKS

A bill that would salvage a nationwide legal assistance program for the poor comes up for a vote in the U.S. Senate tomorrow and sorrowfully has become a pawn in impeachment politics.

The question is acceptance of a House-Senate conference committee report setting up an independent government corporation in place of the legal assistance program that now is part of the Office of Economic Opportunity that is being phased out June 30.

Though the bill is essentially the same as one proposed by President Nixon three years ago, a bloc of southern and conservative senators is opposed to it, and now a presidential veto is possible as part of Mr. Nixon's strategy of currying favor with conservatives to gain their votes against impeachment if that should become necessary.

One of the key votes against the Senate version of the bill was cast by Sen. Norris Cotton, R-N.H., because the measure didn't contain a provision for funding review for less than five-year periods.

Sen. Cotton consistently has voted with the conservative bloc. But he could go either way tomorrow. At stake as far as New Hampshire is concerned is a $700,000 two-year program which served nearly 6,000 indigent and needy persons in the state last year.

Sen. Cotton's amendment providing for two-year review of the legal assistance budget subsequently was adopted, and is in the bill upon which the Senate will vote tomorrow.

The Senator said in February the five-year review provision was his only objection. He wrote to Hilda Fleisher of Manchester, secretary-treasurer of N.H. Legal Assistance, on February 18 that despite his vote against the Senate bill "I remain a supporter of legal services and I will continue to do everything I can to assure funding for our own New Hampshire program."

The conference committee version of the bill contains an appropriation for $190 million to operate the program nationwide for the 1975–1976 fiscal years which begin on July 1.

The House approved the conference committee report May 16 after heated debate over a provision that would allow the new corporation to fund "back-up" research centers on legal problems of the poor. This sec-

tion of the measure was approved by only seven votes, but the bill itself passed 227–143.

Since the Senate pased its tougher version of the legal assistance corporation bill Jan. 31, President Nixon has changed his position on a wide range of legislation he previously supported. The apparent aim, which the White House denies, is to take the side of the conservative bloc in hopes a minimum of 34 votes will stick with him in event of an impeachment trial in the Senate.

It takes two-thirds of the Senate membership of 100 to convict a President on impeachment charges.

The question on the legal services corporation vote is whether Sen. Cotton will remain a member of the conservative bloc or stand fast on his February pledge to N.H. Legal Assistance.

If the Senate rejects the conference committee report tomorrow, legal assistance programs for the poor will end on June 30. If President Nixon vetoes the program, it also will end unless both the House and Senate vote to override by two-thirds margins.

The vote on the Senate version of the bill Jan. 31 was 69–17—sufficient to override. But the House vote on the conference committee report was 20 votes shy of the necessary two-thirds.

The N.H. Legal Assistance program was on tenterhooks last year when Gov. Thomson refused to accept the federal funds to keep it going. But he was overruled by the U.S. director of OEO, Alvin Arnett.

Thus for the second time in six months, the N.H. Legal Assistance program is wobbling on the brink of extinction.

[From the New York Times, July 9, 1974]

ACTION ON LEGAL SERVICES

As the Senate returns to work, it can tune up for its tough summer schedule by approving with dispatch the legal services bill, which is as ripe for final action as any measure could be. This legislation would create a corporation to house legal services activities and insure the continuation of that program.

President Nixon proposed in 1971 to preserve the program—begun initially in the Office of Economic Opportunity—by creating a corporation which would keep it out of politics and insure its efficiency. That year, Congress passed such a bill; but the President vetoed it, principally because he felt his role in selecting the members of the board to be too limited. The current version—passed by the House last summer, by the Senate in January and approved unanimously by the Senate-House conferees—now awaits only Senate acceptance of the conferees' report and the President's signature.

The arguments for completion of work on this legislation are overwhelming. Legal services has been viewed by many as the most effective and efficient of the programs designed to deliver services to the poor. In a sense, the program has wrought a revolution of elemental fairness. It has opened wide the doors of the system of justice to America's poor for the first time.

The compromise now before the Senate represents months of tedious legislative effort to accommodate Mr. Nixon's reservations and those of conservative Congressional critics of the program. It does all of that and more. It is even more restrictive than the proposals sent up by the White House a year ago. It now needs only to be endorsed promptly by the Senate and signed into law by the President.

[From the Binghamton (N.Y.) Sun-Bulletin, June 12, 1974]

LAW FOR THE POOR

The relatively recent discovery, or at least open acknowledgment, that poor people have rights unrelated to their pocketbook situation has shaken a lot of the non-poor.

Nothing shakes up the Establishment so much as the idea that poor people may have a right to a lawyer. Not to defend themselves when they run into trouble with the police—everyone will grant them that. But if they have a run-in with bureaucrats, not cops, they may just decide to seek a legal remedy, and sue. This sort of thing brought the walls of legal segregation tumbling down in Dixie. And who knows what might fall next?

There is a bill in Congress, already passed by the house and expected to win Senate approval, that will set up the federal Legal Services Programs as a nonprofit corporation. It used to be an arm of the dying Office of Economic Opportunity. President Nixon asked for this action three years ago, and vetoed it seven months later because the bill passed didn't give him total control over naming its directors.

The hassle over this Legal Services Corporation—to fund local agencies like Broome Legal Assistance Corp.—has continued, and there is still doubt whether Mr. Nixon will sign the bill if it completes its congressional journey successfully.

But political paranoia is no presidential monopoly. The reactionaries in Congress swarmed around to tie up as many of these lawyers for the poor as they could with restrictions on activity for which government money could pay. The bill now in the works forbids Legal Assistance to handle any school desegregation cases, any kind of draft or amnesty cases, any nontherapeutic abortion cases. It restricts handling of class action cases. It forbids lawyers working with the program to undertake any political activity at all, such as giving someone a ride to the polls.

The bill also seeks to limit local agencies' use of legal back-up centers—there are now about a dozen, mostly in law schools about the country. The Nixon proposal called for a central agency in Washington to do research on cases requested by local agencies—the most blatantly wasteful notion outside the Pentagon that we can remember. But like those non-Nixon restrictions popped in by congressional conservatives, it is meant to clip the wings of lawyers who don't serve the Establishment.

It should be noted that, unlike the American Medical Association, the Establishment's bar groups across the country have generally rallied in support of Legal Services.

This bill has a lot of silly flaws, but it should be approved by the Senate and signed by the President. The passing of OEO must not mean an end to its services. And especially not of a service as vital to a citizen as the right to sue.

[From the Corning (N.Y.) Focus, June 29, 1974]

LEGAL SERVICES MUST BE KEPT

Equal justice to all low-income Americans would be furthered by the Legal Service Bill soon to come up before the U.S. Senate for action.

Although it's a national bill, it would have an impact locally because the Office of Economic Opportunity now operates a Legal Services office in Corning, covering Steuben, Allegany and Cattaraugus Counties.

If the bill is not passed, OEO will be unable to continue to fund the program, operated locally by five attorneys.

The program, as well as the local office, provides legal representation to people financially unable to hire an attorney for civil suits—no criminal matters are handled.

The local office came into being immediately following the flood and initially handled flood-related cases, but has since branched out more into such fields as cases involving Social Security, the SSI program, welfare, Medicare and Medicaid, landlord-tenant and consumer problems.

During May alone the office handled 122 new cases and figures for June are expected to run even higher.

The bill has the backing of the American, New York State and Steuben County Bar Associations. It is also backed by the judiciary.

An earlier bill to fund the program was vetoed and the backers came up with this new bill, which has several additional restrictions on eligibility, income and assets, as well as types of cases which can be handled.

The administration drafted the current Senate version of the bill but it now appears the administration is reversing itself because of pressure from Southern Congressmen.

Most poor people, until recently, neither knew their basic rights nor obtained them. This nation should be proud that much has been done to correct this. Approval of this bill would not only assure continuation of current program but broadening of the bases from which they operate.

We strongly urge this bill be approved and urge residents to write Senators Jacob Javits and James Buckley to urge their approval.

[From CBS News, June 24, 1974]

SPECTRUM

I'm Nick Thimmesch.

Most Americans get enough to eat, have a chance to get a basic education, find a job, and get a measure of health care and support in old age. That's the way it should be. We are constantly trying to improve these basics through social legislation. It seems to me, however, that besides these basics, every American also has the right to legal services when he or she runs into trouble.

The poor, however lacking in resources, usually manage on the basics. But when it comes to coping with what can be called a valid civil dispute—or worse—the poor become confused. A middle class man or woman can get on the phone and raise the dickens with the landlord, the credit bureau or repairman. If the grievance isn't settled, the middle class person usually knows enough to get a consumer agency or the Better Business Bureau looking for him—or in more serious cases, a lawyer.

But the poor generally don't know where to start. They are stupified by a system which gets more complex every day. Consequently, they are often the passive victims of civil injustice, and sometimes, criminal injustice.

That's why we need a Legal Services Corporation as provided for in a Bill now resting in the Senate. Only two actions are required before it becomes a law: Senate approval of a joint conference committee report, and President Nixon's signature.

This Bill is controversial, and with cause. When the office of Economic Opportunity—the anti-poverty agency—was riding high, so were some of its activist lawyers in the legal services program. Some lawyers vented their egos by harassing government offices and businesses they despised as part of the "rotten establishment." The poor were pawns in this ego exercise. Other activist lawyers see legal services as a device to push their pet causes—abortion, school busing or whatever.

But the legislation now pending prohibits this kind of activity. With the help of the American Bar Association, and with the approval of some congressional conservatives, safeguards were written in to make sure the self-centered, single causist lawyers couldn't use the Legal Services Corporation to finance their activities. There's no reason this Bill shouldn't be tried out as a law.

In our country, all of us, liberals, centrists, conservatives, say that we believe in equal justice for all. Well, that's fine, but many people can't afford justice, or don't even know how to look for it. The Legal Services Corporation, which would have staff lawyers to help individuals with their legal problems, would be a fine mechanism, admittedly

run by humans, to extend justice to more people.

The Senate should move on it now. And President Nixon, who should have some first-hand appreciation of the benefit of legal aid, should sign it without reservation.

[From the Rochester (N.Y.) Democrat and Chronicle, June 5, 1974]

LEGAL SERVICE TO THE POOR MUSTN'T DIE

There has been firm support for the concept of legal service to the poor from responsible national officials on both ends of the political spectrum, including President Richard M. Nixon.

The problem has been that the liberal definition of legal aid to the poor is a broad one, including such things as class action suits. The conservative view has been narrower, encompassing only such legal aid as is necessary to keep poor families afloat in this highly complex age.

Since Legal Services has been part of the old Office for Economic Opportunity, now going down for the third and last time, a new bill must be passed creating a Legal Services Corporation. President Nixon himself proposed this arrangement and would have the power to appoint its Board of Directors if a bill now emerging from the Congress is signed into law.

The trouble is that the fate of Legal Services, in the estimate of many on the Washington scene, has become embroiled in what is generally known as "impeachment politics." The conservative Washington weekly Human Events said in its May 25 issue that Legal Services has become the pivotal issue for House and Senate conservatives in defining their future relationship to the Administration.

The seriousness of a veto of the Legal Services Bill cannot be overstated. There are not, by most estimates, enough votes in the Congress to override. And with the congressional gears heavily clogged with impeachment business, the chance of a new bill passing both houses is effectively nil.

The poor of America need legal support of the kind the Federal Legal Services Corporation could give them. Mr. Nixon has supported that need in the past. He must continue to do so now, or face charges of abandoning his basic principles under fire.

[From the Charlotte Observer, June 23, 1974]

R. M. NIXON VERSUS B. J. JACKSON

(By Reese Cleghorn)

A battery of lawyers is representing Richard Nixon in the impeachment proceedings and in his skirmishes with the federal courts. They are being paid by the taxpayers, and that probably is as it should be.

But because of President Nixon, a Charlotte citizen, we might call Billy Joe Jackson, may have no such help in his efforts to qualify for federal aid as an impoverished and jobless man with tuberculosis. The law does not clearly show whether he is immediately eligible, and he has been turned down for benefits. His only recourse is to go to court. But he cannot afford that, and shortly the office that has been providing legal services free may not have the funds to continue doing that.

Those two cases may seem to have little in common. One man is the President; the other is, by some lights, a nobody. But each is dependent upon good legal representation if he is to receive a fair shake. We live in a complex society, full of government entanglements and bureaucratic error, and the courts often are our only source of remedy.

For many years a poor man like Bill Joe Jackson could call upon the bar association or, in some places, the Legal Aid Society to provide free legal representation if he needed it to untangle some personal or financial problem. But such representation usually did not enable him to go into court against the government—local, state or federal—even though that might be necessary to determine whether he had been dealt with properly by government. In short, he might get legal help in dealing with a creditor or a landlord, but not with a bureaucrat.

The poverty program changed that. Throughout the country, legal services offices funded by the now-defunct Office of Economic Opportunity offered a fairer deal for the Bill Joe Jacksons (who are not, after all, so different from the W. Joseph Jacksons). If the client needed only legal advice, he might get that. If he needed representation in dealing with a creditor, he might get that, provided that a legal services lawyer thought he had a case. And—the new twist—if he needed to bring suit for remedy in the face of a questionable government ruling or a possibly unconstitutional practice, he might get that.

In short, his attorney could act like any other attorney, representing his client to the fullest extent that seemed necessary. This, after all, is the only way our legal processes can be made fair. If some people's attorneys may press whatever legal actions seem justified and other people's attorneys cannot, the latter are being denied "equal protection" under our laws.

But because some of the suits handled by federally-funded attorneys were directly toward City Hall and the state and federal governments, many politicians grew resentful. After all, they said, why should government finance suits against government? That is a Big Brother view, of course, resting upon the firm belief that the government must be right and the ordinary man must be wrong.

So it seems strange that many senators and representatives who are regarded as conservatives and foes of arrogant government have tried to obliterate the legal services program. (North Carolina's Sen. Jesse Helms even filibustered against it.) Just as strange is President Nixon's vacillation on the subject. In 1971 he advocated a strong legal services program, but there is now fear that he will veto the bill continuing the program.

The President did, in fact, veto a bill passed in 1971. Another version, in part designed to meet his stated objections, now has passed the Senate and House. Differences between the two houses' bills have been ironed out, and the House has accepted the compromise. The next step is for the Senate to complete its action. The votes are there, but some advocates of the bill are holding off, hoping the President may be persuaded not to veto the bill when it is passed.

Why would he veto? He proposed this very approach three years ago: the creation of a National League Services Corp. to run the program, with many limitations to assure that legal services lawyers would not go too far in influencing public policy.

If he does veto the bill, the obvious reason will be impeachment politics. He will have decided to appease the hard-core "conservative" bloc in the Senate, as he lately has appeased it on other matters, hoping to keep the 34 votes he may need in order to prevent his removal from office. (The ramifications of that for Charlotte will be explored in a subsequent column.)

He could conclude, on the other hand, that he already can count on the support of far-right senators such as Sen. Helms and South Carolina's J. Strom Thurmond and that what he should do is curry favor with more moderate senators who may be swayed to his side.

In any event, the President's desire to keep himself in office may be the determining factor in what he does about a matter of substantial national importance. That is not a very encouraging prospect for the Bill Joe Jacksons.

[From the Durham (N.C.) Morning Herald, June 6, 1974]

THE POOR AS PAWNS

People who live in poverty don't have any clout in the Nixon administration, but they are apparently becoming quite important to the President these days.

Their newfound importance is detrimental to them, however, for they are becoming pawns in Mr. Nixon's struggle to hold office. The President must not lose any of his remaining conservative support in the House if he is to escape impeachment. And if he is impeached, he must keep his conservative support in the Senate to avoid conviction.

In an effort to solidify that support, Mr. Nixon has decided to abandon his own program for welfare reform. But that isn't all. According to the conservative weekly Human Events, Mr. Nixon is also under strong pressure to veto the Legal Services program for the poor—a bill that he has supported since it was drastically revised last year to let him appoint all the directors of the Legal Services Corporation.

The present bill, which the Senate will soon act on, is a product of almost endless compromises designed to curb or eliminate "social activism" on the part of Legal Services lawyers, and it is not as good as it should be. The bill puts so many restrictions on the lawyers that they would qualify as third-class citizens. They would not even be able to work for a school-bond issue after office hours, for example. And there are other unnecessary and unwise restrictions.

But the bill has two important things going for it, two things that shout for its enactment. First, it would remove legal services from all connection with antipoverty programs and permit it to stand on its own as an independent corporation.

Second and most important, it will continue to provide poor people who need legal help with that all-important service. As conservative columnist, James J. Kilpatrick, who supports the bill, recently wrote: "Despite great improvements in recent years in fields of criminal law untouched by the pending bill, the poor are still far removed from 'equal justice.'"

The Senate should pass the bill in its present form and resist efforts to re-establish the link between legal services and the other anti-poverty programs. If the President then is callous and opportunistic enough to veto legal services in an effort to save himself, perhaps the votes necessary to overturn the veto can be scraped together.

[From the Cleveland Press, June 17, 1974]

POOR NEED LEGAL SERVICES

Last year the U.S. Senate chose to go home for the holidays without passing a legal aid program for the poor. Finally, after much jockeying, the Senate is close to voting on a House-passed bill which would set up a Legal Services Corporation.

The Nixon Administration has been phasing out Office of Economic Opportunity programs for a couple of years, causing great concern over what will happen to lawyers who do legal work for the poor and are paid with federal funds.

The Legal Aid Society in Cleveland, for instance, gets a majority of its funds from the Federal Government, the rest from foundations. Its last grant of $381,000 from OEO will allow it to operate only through November.

If the Legal Services Corp. is established (keep your fingers crossed), Legal Aid here and other agencies around the country with more than 2000 lawyers doing work for the poor can apply to the corporation for money.

Opposition to such aid has come from those who charge many poverty lawyers stir

up the poor against politicians and businessmen. That allegation is just so much bunkum, though. A General Accounting Office investigation last year found that poverty lawyers spend almost all their time helping the indigent handle contracts, bankruptcies, divorces and other matters for which the wealthy can afford to hire their own attorneys.

It would be mean-spirited for Congress to say that the affluent can have benefit of lawyers but deny this service to the poor.

There has been some apprehension that President Nixon, listening to the most conservative voices in the White House, would veto a Legal Services Corporation, but this does not appear to be the case now.

Restrictions have been placed on what lawyers can do with grants from the Legal Services Corp. They cannot lobby for legislation, for instance. That means the good work done by the Legal Aid Society in trying to get a landlord-tenant bill passed in Ohio would not be possible in the future. There are strict curbs on filing class-action suits, too, such as the one brought against the Jones & Laughlin Steel Corp. here. Also, Legal Aid would be restricted in the assistance it could give to neighborhood self-help groups.

Those are steps backward. Although the Legal Services Corp. bill is not so wide as a church door, nor so deep as a well, it is the only way that OEO legal agencies can keep going. For that reason we urge its passage, which seems likely but is certainly not assured. We suggest those interested strongly advise Senator Howard Metzenbaum and Robert Taft to vote "yes."

[From WKYC-TV Cleveland (Ohio), June 19, 1974]

EDITORIAL

There's deep concern that the President's threatened veto of the $100 million Legal Services Corporation Bill will literally dismantle legal aid offices around the country, and that includes Cleveland.

The majority of legal aid funds come from the Federal Government, and unless the measure is allowed to become law, federal legal aid monies will be cut off after June 30th. It was originally proposed by the President. Now, unaccountably, he threatens to veto it. Apparently it's become too radical. The only replacement in sight is a highly restrictive measure proposed in the House of Representatives.

At best, the poor receive little more than super market justice. There are too few public attorneys, too little time to prepare cases, and too many people needing help. It will mean the term *equal justice under the law* will simply become inoperative. Somehow, if you're poor, you don't rate protection, or so the theory seems to go.

There's one added point: The public bill for the various legal services now used by the President in defense of himself is estimated at about $6 million. That's also legal aid.

At any rate, if we wish to call this a civilized country, that bill—the Legal Services Corporation Act—should be allowed to pass without a veto.

[From the Columbus (Ohio) Citizen-Journal, June 18, 1974]

LEGAL AID IN TROUBLE

Neighborhood legal services for the poor will dry up soon unless Congress approves and President Nixon signs new legislation keeping the program alive.

A bill creating a new legal services corportation is under strong attack by conservatives, who say poverty lawyers spend too much time agitating for political and social reforms.

In fact, such lawyers spend most of their time handling divorce, child custody and housing dispute cases for people who have no other access to legal aid.

This has been one of the more successful antipoverty programs at providing practical help where help is needed.

Yet the program will expire unless new legislation, setting up an 11-member operating board, is approved by the end of the month.

The fear now is that Nixon will veto the legal services bill (which he once supported) in an effort to woo conservative support for his upcoming impeachment battle.

Such an action would be unfortunate—not only for the President's own image, but for hundreds of communities that now benefit from free legal aid to the poor.

[From the Columbus (Ohio) Saturday Enquirer and Ledger, June 1, 1974]

A BLOW TO LEGAL PROFESSION

Former Chief Justice Earl Warren observed the other day that the parade of attorneys accused of Watergate-related crimes has weakened confidence in the legal profession. Starting at the top, the President faces possible impeachment and the former Vice President has been disbarred in Maryland.

Such sensational, one-of-a-kind proceedings involving lawyers who are public officials naturally capture both the headlines and prime time. But the other lawyers in public service fields—legal aid, public defender, anti-poverty, consumer, environmental, civil and individual rights—need not be tarred as a group because of the activities of those few who have demeaned the law.

Right now a House-Senate conference is taking place that is designed to ameliorate differences over the creation of a National Legal Services Corporation. It would enable the existing Office of Economic Opportunity Legal Services attorneys to continue to represent indigent persons throughout the country. These dedicated attorneys, 2,200 in 900 offices, are the only lifeline to the courts and administrative agencies for millions of unrepresented clients who cannot afford counsel.

The new corporation's lawyers need both the funds and the powers to perform effectively.

SYMBOLIC?

The Louisiana contractor who bought a limousine he thought had once been Spiro Agnew's now finds he was duped.

Agnew had nothing to do with the deal, so the contractor isn't angry with him. But he feels that no one will be interested in the car now as an exhibit symbolizing something about important people in Washington, because the car isn't what it was purported to be.

Maybe he's wrong, though. Just because the car isn't what it was supposed to be doesn't make it any less symbolic of important people in Washington today.—The Atlanta Journal.

[From the Dayton (Ohio) Daily News, June 10, 1974]

NIXON THREATENS VETO OF LEGAL AID FOR POOR

President Nixon, who makes $200,000 a year and gets free housing and an allowance besides, has accepted thousands of dollars worth of legal services from a succession of lawyers who are trying to keep him in office. That's called Protecting the Presidency.

But Mr. Nixon is hinting that he opposes continuing legal services for the nation's poor people. Those services are called a threat to the judicial system.

The White House is threatening to veto a compromise bill that would establish a corporation to run the free legal services programs that were set up under the Office of Economic Opportunity. The bill has already been modified to suit conservatives and Mr. Nixon, and it gives control of the corporation to the President, who would be able to appoint its directors.

Just a week or so ago everybody expected the bill to get quick congressional approval and the President's signature, but impeachment politics has thrown its future into grave doubt.

A few conservatives, who know Mr. Nixon is doing everything he can to make them happy so they won't vote for impeachment, are reportedly pressuring Mr. Nixon to veto the compromise. Bill supporters are negotiating with the White House, trying to convince the President not to veto.

What the bill's opponents object to is its continued funding of "backup centers," which have done creative and important research and lobbying work on behalf of the poor, stepping on a lot of toes in the process.

Some senators are thinking about cutting "backup centers" out of the bill to insure the President's signature, arguing that if the bill does not pass, the whole legal services program will die. They ought to hang tough.

The bill has the support of practically everybody, including the lawyers, and Mr. Nixon cannot in good conscience veto it.

[From the Morning Press, Lawton (Okla.), May 25, 1973]

LAWYERS FOR THE POOR

Legal services to the nation's poor will be provided by an autonomous corporation to be set up by the government at federal expense. Previously, legal aid was furnished by a branch of the Office of Economic Opportunity. The new corporation is the result of a House-Senate conference committee's consultation.

Congress, of course, must confirm the new conference bill. The chances are high that it will do so, as differing forms were passed by the two houses.

Apparently, Congress never learns. The previous legal aid group was disbanded because it became a protected haven for an ultra-liberal, anti-business, down-with-the-establishment, government-bating clique.

In the light of that experience, the final charter is designed to prevent the new agency from being politicized by the activist kind of attorneys who seem to be attracted by such opportunites. Already, voices complain that the agency will be gagged. Not from the work for which it was designed, representing the poor. The danger is that it is heading for another disturbance such as the one that broke up the first attempt.

An agency to take care of the poor is needed. Another liberal political lobby we can do without.

[From the Delaware Times, Delaware County (Pa.), June 17, 1974]

POLITICS THREATENS LEGAL ASSISTANCE

The federal legal services program for the poor reportedly is threatened by "impeachment politics." One of the most effective and few remaining weapons from the original war on poverty is only a few days away from dying for lack of funds.

David A. Scholl, executive director of the Delaware County Legal Assistance Association, gave a comprehensive account of the organization's record and present dilemma in a letter to the editor on this page last Wednesday.

The next day, a New York Times article by Warren Weaver Jr. explained why the program is in difficulty in Washington—"the crippling new Washington disease: impeachment politics."

Despite the huzzahs overseas, the President can have little doubt the House of Repre-

sentatives will vote to impeach. He cannot be blamed for counting Senate votes for and against him. And he well knows that his strongest support will come from conservatives.

Many of these conservatives would like to see Legal Assistance die. They were enraged by the way poor people were able for the first time to use legal representatives and the judicial system to challenge alleged injustices in society.

Legal Assistance spokesmen by necessity poohpooh those significant victories because they have come back to haunt the program now at its time of need. They correctly point out that fewer than 15 per cent of their case load involved disputes with the political and economic establishment.

But conservative senators, whose votes are crucial in any impeachment trial, understandably have the President's ear. And he has let this put him in an inexcusable position.

The bill extending the life of Legal Assistance is very close to that proposed by the President in 1971. He wanted an 11-member corporation to operate the program, and he wanted the power to appoint them, subject to Senate confirmation. He got both.

He also received a number of restrictions on the activities of Legal Assistance attorneys. Were it not for impeachment politics, it is inconceivable that he would now oppose the bill, which has the strong backing of the American Bar Association, hardly a radical group.

But conservatives continue to oppose Legal Assistance and its backers fear a presidential veto unless the bill is sent back to conference and the program weakened still further.

While they agonize, the clock moves. In two weeks, the money stops and, as Scholl pointed out in his letter, attorneys already working for salaries far below what they could earn in private practice will not long remain.

What is needed is swift Senate action and, should there be a veto, a solid override by both houses of Congress.

[From the Philadelphia Inquirer, May 14, 1974]

LEGAL AID BILL WILL DO THE JOB

Congressional conferees have finally agreed on a bill to preserve the legal services program for the poor. It is a compromise of several compromises.

On the negative side, the compromise bill would prohibit legal services attorneys from handling cases involving Selective Service and bar them from bringing lawsuits to desegregate public elementary and secondary schools. Whatever one's views may be on these issues, they are issues which involve legal rights. The view of the conferees, however, was that without the prohibitions the bill probably could not get through the House.

In addition, the compromise goes much too far in forbidding the legal services lawyers from engaging in any kind of political activity, even nonpartisan get-out-and-register campaigns. It also contains a proviso giving preference to local lawyers in hiring staff. That could pose problems in recruiting, especially in rural areas.

On the positive side, however, the bill would create the public corporation, with a board whose 11 members would be appointed by the President with the advice and consent of the Senate.

It would increase funding from the present level, under the Office of Economic Opportunity, of $71.5 million, to $90 million in the next fiscal year and $100 million in the year after that. It would also retain funding for the "backup centers," vital for legal research but banned under the House-passed bill.

Thus, while the Senate conferees may have been compelled to yield too much, the version reported out at least preserves and in many ways advances the principle that equal justice is not just for those who can afford to buy it. The House and Senate should move promptly to send this measure to the White House.

[From the Pittsburgh Post Gazette, June 7, 1974]

LEGAL SERVICES PROGRAM IN DANGER

A program to provide legal services so the poor can have access to the courts is in danger of being entrapped in Watergate impeachment politics.

During the dismantling of various anti-poverty programs, the legal services program has been an exception. It was considered to undergird equal justice under the law.

To insure the survival of the program as a separate entity, Congress fashioned the Legal Services Corporation Act. Conferences with administration officials brought a compromise bill which the White House said it could support. The measure, H.R. 7828, received the endorsement of the American Bar Association and, in our state, the Pennsylvania Bar Association and the Allegheny County Bar Association among others. Congressional passage came in May.

But now fear has arisen that President Nixon may veto the measure to please a group of conservative senators who oppose the concept. If impeachment proceedings go to the Senate, it is expected that Mr. Nixon will lean heavily on conservatives to provide the one-third support necessary to block a guilty verdict.

We hope this assessment is wrong and that Mr. Nixon will sign the measure. As the support of such essentially conservative organizations as the bar associations demonstrates, proper representation for the needy in our complicated system of law and courts is necessary to provide justice for all.

[From the Providence (R.I.) Journal, June 11, 1974]

LEGAL AID CLOUD

Of all the advances made in recent years toward greater equality in the system of American justice, one of the most significant has been the creation of a publicly supported system of legal services available to people of limited means.

In its 300 centers across the country, the legal services program has provided many thousands of Americans with their first chance to obtain a lawyer's advice and help with their problems. For these people, the program has opened access to a legal system that few of them previously had reached.

Yet there now are signs, as Congress completes work on a bill giving permanent status to the legal services program in the form of an independent corporation, that this crucial enterprise may be in serious trouble.

President Nixon is under pressure from conservative members of Congress to veto the legal services bill, on which the House and Senate have all but reached final agreement. Given the strained temper of these times, it appears possible that the President may bow to this pressure from the right and turn down the legal services plan that he himself proposed three years ago.

The bill, as thrashed out by a conference committee of the House and Senate members, is much more limited in its scope than we would like to see. It places restrictions—restrictions that are harassing and needlessly tight—on the type of legal work that legal services lawyers may do. Nonetheless, it is felt to be a version that the program's lawyers can live with. Moreover, it may represent the program's only chance for survival; if the bill should be vetoed, the program could well die at the end of this month, when the fiscal year ends.

Some indication of what a blow this would mean can be gleaned from a look at the program in our state, Rhode Island Legal Services, Inc. Since it began five years ago, this agency has provided legal aid to more than 30,000 people. It now helps between 6,000 and 7,000 new clients each year on a broad range of civil problems from landlord-tenant relations through financial difficulties to domestic relations. It presently has in its files more than 2,500 pending cases, which would be thrown into chaos—and possibly simply allowed to expire—if the program were to shut down.

Beyond its invaluable assistance on individual legal problems, the program has become a vigorous force in advancing social justice. Its lawyers have had a positive impact, far greater than their small number would indicate, in such areas as welfare reform, the rights of prisoners, the availability of school lunches and the rights of handicapped children to equal educations with normal youngsters.

The broad public interest and the need for individual access to legal advice should prove persuasive enough that Mr. Nixon would not even consider vetoing this most important bill. But he never has been especially known for his sensitivity to the problems of the less fortunate, and thus the concern over the bill's fate has spread. With impeachment politics coloring most moves the White House makes, the concern has intensified.

We urge the Senate to give such solid support to the conference version of this bill that the President will be dissuaded from any thought of a possible veto. We urge him to sign it promptly into law. A veto of this measure, in our view, would indicate a most callous disregard for the ideal of equal access to our nation's system of justice.

[From the Memphis (Tenn.) Press-Scimitar, June 17, 1974]

LEGAL AID IN TROUBLE

Neighborhood legal services for the poor will dry up soon unless Congress approves and President Nixon signs new legislation keeping the program alive.

A bill creating a new Legal Services Corporation is under strong attack by conservatives, who say poverty lawyers spend too much time agitating for political and social reforms.

In fact, such lawyers spend most of their time handling divorce, child custody and housing dispute cases for people who have no other access to legal aid.

This has been one of the more successful anti-poverty programs at providing practical help where help is needed.

Yet the program will expire unless new legislation, setting up an 11-member operating board, is approved by the end of the month.

The fear now is that Nixon will veto the Legal Services Bill (which he once supported) in an effort to woo conservative support for his upcoming impeachment battle.

Such an action would be unfortunate—not only for the President's own image, but for hundreds of communities that now benefit from free legal aid to the poor.

[From the Seattle (Wash.) Post Intelligencer, June 5, 1974]

EQUAL JUSTICE

The U.S. Senate has a job to do: Vote "yes" on a bill that will fund a legal-services program for another year.

The legal services bill, which is expected to be debated this week on the floor of the Senate, provides free legal counseling to the poor and indigent.

Strongly supported by the American Bar Association, major bar groups and law schools, the legal service program is believed by urban experts to be one of the best means to correct the injustices that led to rioting in the streets in the 1960s.

One of its problems has been that it is too successful. For example, six selected lawsuits recently resulted in the return to poor persons of $187 million to which they were entitled; suits brought in Boston, Cleveland, Detroit and other cities resulted in extending federal lunch programs to schools in poor communities, and an action in Seattle resulted in the extension of the commodity assistance program during the recent period of high unemployment.

Because Legal Services has battled for the poor against what is euphemistically known as "the establishment," some reactionaries in Congress are working against passage of legislation that will fund the program another year.

They must not succeed. The legal services bill already has been passed by the House of Representatives, and now it is clearly the obligation of the U.S. Senate to make certain the poor are not thrust back to a time when they did not have equal justice under law.

[From the Burlington (Vt.) Free Press, June 6, 1974]

LEGAL AID PROBLEMS

Vermont legal aid and similar agencies throughout the country which offer legal assistance to low-income people could be phased out by the end of the year if there is a Presidential veto of legislation that is likely to pass the Senate this week.

Vermont Legal Aid Director John Dooley, who is in Washington this week, estimated Monday that there is a 50-50 chance of a veto of a bill which would create a National Legal Services Corp. to channel funds to the program.

The corporation has been a part of the Office of Economic Opportunity, but that organization is due to close its doors June 30, Dooley explained.

The bill, creating the new corporation, passed the House and the Senate earlier this year and went to a conference committee, according to Dooley. "The conference report came out May 13 and the House passed it May 16," he said. "The Senate is expected to pass the conference bill this week and then the 10 days will start to run on the President's action."

Pressure is being put on by conservative congressmen for a veto and some White House advisers reportedly are pushing to kill the bill even though President Nixon himself supports the concept, Dooley noted.

He recalled that the Ash Commission in 1971 suggested the national legal services program be taken out of the OEO and put in a separate corporation. "Congress and the White House have been arguing about how to do it for three or four years now," he said.

"If the bill is vetoed, Legal Aid in Vermont could be out of business by the end of September," Dooley predicted. "Any federal money beyond that depends on the passage of the bill."

By the end of the year, all Legal Aid programs will "be out of business" unless the bill is passed, he said.

"In Vermont, we are taking about 6,000 cases a year statewide," Dooley noted.

He said the program's case load has grown year by year since it was started in the state in 1967. Right now, he pointed out, about 50 persons are handling cases in the state. The agency handles only civil cases and about 30 per cent of them are domestic relations cases, Dooley said.

The Vermont Congressional delegation supported the bill to create the national corporation, Dooley said.

Should the bill be vetoed, many of those people in low-income groups who now rely on Legal Aid will have no access to legal advice at all and will be forced into a position of spending portions of their slim incomes to hire lawyers to handle their cases.

Most bar associations and low-income groups support the program and lawyers and law professors serve on the agency's board.

We think the Legal Aid program in its seven-year tenure has done outstanding work for low-income persons and we believe it should receive the necessary funding to continue its excellent work.

[From the Milwaukee (Wis.) Journal, June 7, 1974]

A TEST OF LEADERSHIP

For several years, a bill to create a new version of legal services for the poor has been kicked around Capitol Hill like a tin can in an alley full of 10 year olds.

Now, a House-Senate compromise has run into a new kind of trouble. Painstakingly drafted, it is basically what President Nixon has sought. It is acceptable to the American Bar Association and other moderate groups. It has cleared the House. But, in the Senate, it is stuck in the mushy politics of impeachment.

Hard core conservatives demand that Nixon promise a deadly veto. So far, responses from the White House are unclear. But, since conservative senators are vital to maintaining the "one third plus one" Nixon needs against conviction in any impeachment trial, he's probably listening hard. Meanwhile, backers of the bill delay Senate approval, hoping that moderate voices will ultimately sway Nixon.

How far has Nixon's leadership capacity fallen? This reasonable bill—clearly needed to strengthen equal justice in America—is a test. The measure needs only a presidential nod. But, with Nixon fighting for survival, even that small gesture is proving sadly difficult.

[From the News-Sentinel, July 6, 1974]

LEGAL SERVICES LIMBO

The Office of Economic Opportunity probably was one of the most contentious and contended governmental structures in the history of American bureaucracy. Its sins were numerous, including the wanton wasting of public funds and an unwillingness or inability to apply itself to its assigned objective—the relief of poverty in the country. However, its greatest flaw was the fact that it became, almost overnight, a focus of ideological activism aimed at changing or altering the government to its liking. Somehow, it doesn't seem fair to the citizen or taxpayer to make him support legislatures to determine what government ought to be, and, at the same time, support a bureau dedicated to making government something else.

As a result of that flaw, the Nixon Administration terminated or dismantled the OEO, with quite broad support. Some of the OEO functions or subdivisions were abandoned. Others were assigned to various existing governmental departments or bureaus.

One such function or subdivision—the Legal Services program—has been consigned to a bureaucratic limbo until Congress and the President get together on what it ought to be and how it should be run and controlled. Twice, the House and Senate have passed measures which would establish an independent Legal Services Corporation to carry on the function of providing qualified legal counsel for indigents with legal problems and needs. On the first occasion, President Nixon vetoed the act with specific objections which may or may not have been resolved in new versions of the measure which still must be reconciled in House-Senate conference sessions.

Meanwhile, there seem to be severe apprehensions that the President again will veto the Legal Services Corporation bill and that the program will be dickered out of existence in vote trading over the Watergate-impeachment issue or that it will be continued on an interim 90-day financing basis until something jells.

Without passing on the adequacy of the pending legislation or on a possible veto, we would offer several observations and suggestions:

1. Legal Services appears to have matured considerably since the days when its principal interest seemed to center on the defense of pot and long hair.

2. That in the present context, there are occasions when all types and classes of citizens, including indigents, need and should have legal representation.

3. That, since the scope of these occasions and areas of need are relatively limited, adequate controls are needed to insure that the program does not again become a focus of political concern or contra-government activism.

4. And, finally, that if the Legal Services Program is worth saving (and there seems to be fairly general belief that it is), it is worth being saved properly which cannot be accomplished on a 90-day-to-90-day basis.

Mr. TUNNEY. Mr. President, the administration has fought against the poor at every turn. Nowhere has this attitude been clearer than in the battle over Legal Services. Despite continual congressional declarations of support, the administration has worked to deprive the poor of legal representation. I need not recall all the details of this fight. The administration has tried every tactic. First, it sought to subject the lawyers to the control of hostile local authorities. We stopped that. Then, it attempted illegally to refuse to spend money Congress had authorized and appropriated. Several of my fellow Senators went to court and stopped that.

Three days ago, we learned of the forced resignation of Alvin J. Arnett, Director of the Office of Economic Opportunity, further indicating the administration's contempt for programs which serve our Nation's poor. This firing could not have come at a more inopportune time. Just when a smooth transition of the existing programs is most needed, the Administrator of the program is removed. Arnett's mistake was not that he did not fulfill the responsibilities of his job, but his mistake was that he did his job too well. In attempting to serve the Nation's poor, fulfill the mandates of Congress, as well as the wishes of the Nation's Governors and mayors by seeking the continued life of the OEO programs, Mr. Arnett "lost his party compass." In exercising conscience and independence over partisan concerns and in garnering overwhelming support for the continued life of the community action program to the point where a veto would not hold, Arnett's effectiveness mandated his dismissal.

Arnett's firing makes it imperative that we delay no longer in enacting the independent Legal Services Corporation. The maintenance of the independence of this corporation and the attorneys in the program is more important than ever. Additionally, Arnett's firing makes clear the need to support the continuation of OEO's community action program under the auspices of an independent agency, free from political reprisals. It is for this

reason that I will support legislation to be introduced shortly by Senators JAVITS, KENNEDY, and others, to accomplish this result.

For 3 years now, the Senate Subcommittee on Employment, Poverty and Migratory Labor and the full Labor Committee have worked long, and hard to reach a compromise legal services bill acceptable to the House and to the administration. The Senate-passed version of the bill, while not one I would have authored, gave supporters of legal services an acceptable bill. The conferees then attempted to reconcile differences in the House and Senate-passed version of the bill. The conference report, while weakening the bill, was an admirable attempt to single out broad areas of accord and to structure the bill to implement those aspects of a Legal Services Corporation upon which there is agreement.

The administration, sensing the inability of the Congress to override a veto on this program, has upped the ante. It now has required that the authority to contract with backup centers be deleted. These centers are vital to the legal services program. They assist neighborhood legal services offices in litigating, conducting research, compiling and analyzing the effect of recent administrative rulings and judicial decisions which might affect eligible clients. Without these centers, the whole legal services program will be less efficient and substantial duplication of work by many different legal services offices may result.

I feel that the support functions currently performed by the backup centers can and must be undertaken by the Corporation itself. In making this statement, I assume that the Corporation will recognize the importance of research, training, technical assistance and clearinghouse activities to overworked lawyers in the legal services offices, and will use its authority in this area. Such services must be provided to our local, State and national legal services programs. The Corporation can do this by setting up several offices around the country to do research, training, and other services, or its employees may all be located in one office.

Because the backup services are so important, I do not want them to be interrupted while the Corporation is being organized, and hiring and training the necessary personnel. Therefore, the existing Center should be enabled to continue providing backup services until they can reasonably be undertaken directly by the Corporation.

One of the basic premises of the legislation before us today, is that poor people are entitled to the same range of professional assistance as those who can afford to pay. This includes the provision of legal assistance by national legal services centers specializing in a particular area of law, or in the problem of a particular group of people. Since section 1006(c) prohibits the Corporation from participating in litigation or legislative advocacy except on behalf of itself, I assume the Corporation will fund specialized groups to provide legal assistance under section 1006(a)(1).

Government-sponsored legal services programs have been able to provide an important component of needed legal representation. These programs support the handling of 1.5 million cases each year in areas ranging from family problems to employment and consumer issues. In addition to the large volume of cases handled, there is evidence of high-quality lawyering in the programs. The General Accounting Office reports that only 28 percent of legal services cases lead to court action. Seventy-eight percent of those cases are won or settled while only 12 percent are lost.

Sometimes, the voluminous publicity surrounding landmark litigation often brought by legal services attorneys creates the mistaken impression that legal services attorneys spend too much time trying to reform the law instead of dealing with the more mundane but critical, day-to-day problems of their clients. The evidence available simply refutes this contention. For example, after 16 days of hearings, three justices concluded that from 95 to 98 percent of the cases handled by California Rural Legal Assistance dealt with day-to-day problems. A 1973 GAO report noted that legal services attorneys lack sufficient time to devote to law reform cases.

The Judiciary Subcommittee on Representation of Citizen Interests, which I chair, has, for the past year, been investigating new ways to bring affordable legal representation to all Americans. To date, we have held 15 days of hearings on various aspects of the problem. The subcommittee is studying new developments in the delivery of legal services such as prepaid legal services, legal clinics, and the increased use of paralegal personnel which may aid the "legal enfranchisement" of people at all levels of the economic spectrum.

Accordingly, two aspects of the amended bill are particularly important to the work of my subcommittee. First, I am pleased that the amended bill at least allows the Corporation to conduct research, in the area of the delivery of legal services in order to determine the most efficient and economic way to provide high-quality representation. These research efforts will be of great assistance to the work of my subcommittee. While I believe the ongoing efforts of the American Bar Association and numerous State and local bar associations can be most helpful to the Corporation, the research and developments effort must also include input from the consumers of legal services.

The second aspect of this legislation of particular importance to my subcommittee concerns the role of the organized bar in promoting or inhibiting developments in the area of legal services. In this regard, the subcommittee held a hearing in February of this year in Houston, Tex., the site of the ABA midwinter meeting, entitled "The Organized Bar: Self-serving or Serving the Public?" We learned that there is no simple answer to the question. Sometimes the ABA is motivated by narrow self-interest, such as I pointed out during the floor debate on the National No-Fault Motor Vehicle Insurance Act. But in urging Government-sponsored legal services for the poor, the ABA has taken a selfless stance.

From the inception of the OEO program in 1964, the ABA endorsed the notion of Government-supported legal services for the poor. In 1971, when the President suggested the establishment of an independent legal services corporation, the ABA went on record in support of this concept. The association has numerous times repeated its endorsement.

Since that time, the ABA's efforts have been directed toward insuring that the integrity and the independence of lawyers who provide legal services to the poor are not compromised. I applaud the association's efforts. As a result in part from the ABA's commitment, H.R. 7824 places no substantial restraints on the legal services attorneys' freedom to decide in what forms, and under what circumstances, their clients' best interests may be represented. The only significant restraints on legal services attorneys are those which are placed upon the profession at large by the Code of Professional Responsibility.

The sponsors of this bill have been given assurances that the President will not veto this bill. The price of these assurances has been high. But overall the program is a vital one which must be preserved.

This legislation will provide millions of Americans with needed legal representation; it is open and flexible in approaching new ways to deliver legal services and insures the independence and integrity of the providers of legal services. I urge a strong showing of support in the Senate.

I ask unanimous consent to insert certain statements and articles in the RECORD at this point.

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

SAN FRANCISCO, CALIF.,
May 30, 1974.

Senator JOHN TUNNEY,
Capitol Hill,
Washington, D.C.

Following telegram was sent to President Nixon:

DEAR MR. PRESIDENT: The bar association of San Francisco joins with the Board of Governors of the American Bar Association in urging your approval of H.R. 7824. Based on its close observation of the Legal Services program in San Francisco for several years, this bar association is convinced that this Federal program is indispensable to the goal of equal justice which you eloquently expressed in your 1973 State of the Union address. With reference to your forthcoming proposal for a legal services corporation, H.R. 7824 in its present form is what has emerged from that proposal. While we would have preferred fewer restrictions than it contains for the corporation's lawyers we recognize that the scope of legal services for poor persons is a matter about which reasonable people strongly differ.

We urge prompt enactment of this bill.

Sincerely,

ROBERT H. FABIAN, *President.*

LOS ANGELES, CALIF.,
May 30, 1974.

Senator JOHN V. TUNNEY,
Senate Office Building,
Washington, D.C.

The House has reported out H.R. 7824, the legal services corporation bill; and although the compromised bill severely restricts the scope of legal services, it does assure the poor some access to judicial assistance.

It is my hope you will resist any attempts to further dilute the bill.

I urge the Senate's timely passage of this much needed legislation.

TOM BRADLEY,
Mayor of Los Angeles.

LEGAL AID SOCIETY
OF SAN JOAQUIN COUNTY,
Stockton, Calif., May 24, 1974.

Re Legal Services Corporation Bill, House Resolution 7824

JOHN TUNNEY,
U.S. Senator,
Washington, D.C.

DEAR SENATOR TUNNEY: As you may be aware, legislation creating the National Legal Services Corporation passed the House of Representatives on a 227 to 143 vote last Thursday. House Resolution is No. 7824, authored by Representative Albert Quie, R-Minn. I am writing this letter to you as a Directing Attorney of a Legal Services Program located in Stockton, California. This office supports the legislation that has passed the House and I am specifically asking you to do everything in your power to see that it passes the Senate with as strong a vote as possible.

The indications are, at this point, that President Nixon will veto this legislation unless it gets past the Senate with a strong margin.

In my opinion, the legislation provides a very strong program for legal services for the poor. I am asking you to please support this legislation as much as you possibly can, especially by getting as many Senators as possible to vote for it when it reaches the House.

Yours very truly,

JOHN W. COYNE,
Directing Attorney.

ALAMEDA COUNTY BAR ASSOCIATION,
Oakland, Calif., June 24, 1974.

Senator JOHN V. TUNNEY,
Senate Office Building,
Washington, D.C.

DEAR SENATOR TUNNEY: The Board of Directors of the Alameda County Bar Association has consistently supported the creation of a Legal Services Corporation. This position was reaffirmed at its meeting of June 6, and I was instructed to write to you urging you to support H.R. 7824 when it comes before the United States Senate for final approval.

Very truly yours,

HAROLD C. NORTON,
Secretary.

[From the Daily Journal, Los Angeles, Calif., June 10, 1974]

BAR URGES PRESIDENT TO SIGN LEGAL SERVICES LEGISLATION

(By Andrews Erskine)

The Los Angeles County Bar Association has sent a telegram to President Nixon urging that he sign the bill which would create a national legal services corporation if passed by the Senate.

The bill, House Resolution 7824, by Rep. Albert Quie, R-Minn., was passed by the House on May 16, and action by the Senate is expected this week.

The President has said that he will not sign a bill "one comma" more liberal than the original HR 7824, which he earlier approved.

The bill as it stands now is a compromise between the President's original bill and a more liberal measure sponsored by Sen. Alan Cranston, S 2686.

The telegram, authored by Association President G. William Shea and sent also to Senators Cranston and John Tunney, stated, "As you know, (the bill) is a compromise bill arrived at after scores of hearings and months of negotiations in an attempt to draw a fair balance between the competing interests. We believe that the bill will provide for continuation of an independent legal services program which will give important assurance that our courts are accessible to the poor."

It continued, "Contrary to certain claims, we believe that this measure does not provide legal services to the poor which are different in kind or in any way more political than legal services available to clients who pay."

The bill, which would take legal services out of the control of the federal Office of Economic Opportunity and place them under control of an independent corporation, has been termed one of the most controversial measures on Capitol Hill for some time, and has been the victim of much legislative log-rolling.

It has drawn the fire of many conservatives, notably Gov. Ronald Reagan, who, on the day of the bill's passage in the House of Representatives, sent a telegram urging the President not to sign the measure.

Reagan said, "Signing this bill will mean that states will be subject to virtually unlimited harassment by tax-subsidized groups allied with or controlled by groups such as the ACLU, the National Lawyers' Guild and the National Welfare Rights Organization.

"This bill would perpetuate and extend drastic changes in the manner by which legal services have traditionally been provided in this country, providing interest groups which favor such things as unrestricted abortion, busing and increased welfare demands," the governor continued.

The Los Angeles Daily Journal reported last month that a Washington spokesman for the Governor said it was probable that the bill would pass the Senate, as that body has passed even more liberal legislation.

The telegram sent by the Bar Association expressed a different view, claiming that in the city of Los Angeles, the Legal Aid Foundation handles approximately 24,000 cases a year. When the efforts of the Pasadena, Long Beach and San Fernando Valley legal services programs are added, approximately 40,000 cases are handled per year for indigents in Los Angeles County alone.

"Should support for such legal services cease, the impact on indigents in this county would be gravely adverse," the telegram concluded.

Mr. McGOVERN. Mr. President, I am pleased to add my voice in favor of the Legal Services Corporation bill presently before us. This bill does not represent the type of bill that I would have liked to see us pass; it is filled with compromises that I disagree with. Nevertheless, insofar as it does take important steps towards assuring "equal justice for all," I will support it.

This compromise bill, which incorporates virtually all of the fundamental features that the administration requested, is of utmost importance to the poor in our country. It will make sure that the poor are provided with equal access to the judiciary so that their grievances can be settled in the courts rather than on the streets. It will demonstrate to all that ours is a society of laws rather than men, and that all people can protect their legal rights regardless of economic circumstances.

In my State of South Dakota, the legal services program has made a marvelous contribution to the poor, and consequently, to the State as a whole. Our programs in Rapid City and at Rosebud have worked well to make sure that the poor are adequately given their day in court. Without regard to ethnic background or political affiliation, the legal services program in our State has provided first-rate quality legal services.

It is now important to expand the program and to insulate it from all potential political pressures. This can best be done by establishing a politically independent Corporation. Certainly, if I had my way, I would change many of the restrictive features in this bill. But, despite such differences, this bill is effective enough to warrant the support of everyone in this chamber today.

The most recent compromise—the one which shifts the backup functions of research, technical assistance, training and clearinghouse of information from the current backup centers to the Corporation—is one of the compromises that I disagree with. However, since this compromise does not directly affect the provisions of legal assistance to eligible clients, and since legal services offices of a local, State, and national scope can continue to provide legal representation to the poor, even where such offices are established solely for the purpose of providing specialized legal assistance on complicated subject matters, I will support the bill presently before us.

I urge all of you to vote for this bill and I urge the President to sign it. As the President stated on May 5, 1971, when he first proposed the establishment of the Legal Services Corporation:

> The Federal program of providing legal services to Americans otherwise unable to pay for them is a dramatic symbol of this nation's commitment to the concept of equal justice.

The President's statement was appropriate 3 years ago, and it is no less appropriate today.

Our country so vitally needs reassurance that our Government is dedicated to the causes of justice for all. With the passage and signing of this bill, we can provide that reassurance, particularly to the impoverished across our land.

Mr. HUGHES. Mr. President, the bill that is currently before us is the conference bill with only one exception. That exception relates to the functions of research, training, technical assistance and clearinghouse information activities which are currently provided by numerous national centers throughout the country.

Under the amended bill currently before us, these functions will continue but they will be handled by the Corporation, and not through grant or contract. Thus research activities—which involve the preparation of position papers, model memoranda and complaints, as well as information distribution on legal issues of major concern to the poor—will be handled by the Corporation. This, however, does not suggest that the Corporation will be permitted to engage in litigation since the Corporation is prohibited from doing so under section 1006(c)(1) of the bill. To the contrary, all legal assistance activities will remain intact and they will be handled by legal services offices that provide representation to clients on a local, State, or national level—whether such offices were established for general legal representation purposes or whether they were established for the provision of

specialized and complex representation on particular subject areas.

The research, training, technical assistance and clearinghouse information functions that we are going to shift to the Corporation are vital to the provision of high-quality legal services. Therefore, it is critical that no interruption be permitted in the continuation of these functions to local, State, and National legal services offices. Insofar as it should take the Corporation at least half a year subsequent to its first board meeting to develop the necessary expertise and to hire and to train the personnel necessary to carry out the backup functions, it is expected that the current backup centers will continue to provide research, training, technical assistance and clearinghouse informational functions until the Corporation is properly prepared to do so.

When the Corporation assumes these functions, it will have sole responsibility for them. This does not mean that the Corporation has to conduct all of these activities in Washington, D.C. To the contrary, the Corporation is enabled to deploy its personnel at different locations throughout the country so that these backup functions can be performed in the most efficient, effective and responsible manner. Moreover, the Corporation can obtain consultant services for these functions from individuals and groups that are especially equipped to help the Corporation in its responsibility for these backup functions. Consequently, it is clear that the Corporation will have the capability to discharge the backup functions efficiently, albeit without having them rendered by contract or grant.

The change in the conference bill, therefore, is not intended to diminish the program's ability to serve the poor effectively. Indeed, all of the legal assistance work that could be provided under the conference bill can still be conducted under the present bill. Local, State and national offices will continue to provide high quality legal assistance work for eligible clients. This is so regardless whether such offices handle either general and simple matters such as matrimonial and landlord-tenant cases, or specialized and complicated matters such as cases relating to benefits under the Social Security Act.

In sum, under this new bill, high quality legal services offices serving local, State, or larger areas will not be hampered in their mission of providing the poor with competent and appropriate legal representation. I am hopeful, therefore, that this bill will be immediately passed and signed by the President.

Mr. MONDALE. Mr. President, as one of the conferees on H.R. 7824, to establish a Legal Services Corporation, I would like to make some additional comments on this vital piece of legislation.

The legal services program established by this legislation is, of course, a continuation of the activities now funded through the Office of Economic Opportunity. In this regard, it is assumed that the institutions providing services today will, to the extent that they maintain their capacity to offer high-quality services and can operate in compliance with the requirements of the new legislation, continue to be used to provide legal services to the poor.

It is also assumed that there will not be a disruption in attorney-c'ient relationships already established and in representation which is currently underway. Legal services attorneys are required under this legislation to act in conformity with the Code of Professional Responsibility and Canons of Ethics of their profession, a requirement which includes the obligation to carry through on the tasks at hand during the period of transition from OEO to the new Corporation. To do otherwise would violate legal services attorneys' ethical and professional responsibilities.

The conference report on the bill reflects the agreement of all the conferees, including myself. I thought it might be helpful to my colleagues in the Senate who are concerned about this legislation, however, if I were to spell out some of the particular compromises which have been reached with respect to important provisions in the bill which we passed last January.

One change has been made in the conference bill. That change relates to the backup functions of the Legal Services program, which are research, clearinghouse of information, technical assistance, and training relating to the delivery of legal assistance. According to our change in the conference bill, these functions will now be undertaken by the Corporation rather than by grant or contract.

These backup functions for the actual litigators are of vital importance to the provision of high-quality legal services. It is, therefore, expected that these services will continue to be provided, but they will no longer be undertaken by grant or contract. Of course, since these services are of critical importance, and since we expect that these services will continue to be provided without interruption the current university-based centers will continue their backup services until the Corporation is fully prepared to undertake them. Consequently, since it will most likely take the corporation at least half a year to hire and train appropriate backup personnel, the university-based offices will continue their backup work during this period of time.

This new backup services provision, of course, does not affect any other provisions in the bill, including section 1006(a)(1) which authorizes grants for legal assistance activities. Legal services offices, operating throughout the Nation, will continue to provide legal assistance to the poor, whether such offices were or are established for the provision of general or specialized legal services.

We hope that the Corporation will seek to provide these backup functions in a very effective manner. If this means that the Corporation finds that it is best to have these services provided through local and regional offices, then the Corporation is authorized to establish such offices. However the Corporation sets up the provision of these services, it is expected that they will be provided effectively and efficiently.

Section 1006(c)(5) prohibits the bringing of any class action suit, class action appeal, or amicus curiae class action by a staff attorney without the express approval of the project director in accordance with policies established by the governing body of the recipient. This is an area of responsibility that has been left to the local programs, and it is not expected to involve the Corporation in any way. It is clear that the Congress expects legal services attorneys to afford clients the fullest and most appropriate representation, explicitly including class actions where they appear to be the most efficacious manner of obtaining relief.

A local program may not become involved in such activity, however, until the project director gives his approval. It is expected that this will assure accountability within the local offices and promote proper attention to these types of activities.

The House provision directing the National Corporation to pay costs and fees when they are awarded by court order (and in conformity with State law, procedure, and court rules of general applicability) against a recipient in a case in which the recipient brought an action against a defendant and lost, section 1006(f), has been substantially altered to make clear that: First, such provision relates to situations only where the court finds that the action was commenced or pursued for the sole purpose of harassment of the defendant, or second, that the recipient's plaintiff maliciously abused legal process. Only on these limited circumstances can fees and costs be collected against the Corporation.

This section, therefore, is only applicable in the extraordinary situations where legal services attorneys have totally abused the judicial system in violation of the Canons of Ethics and Code of Professional Responsibility. Such fees and costs can only be charged against the Corporation and may not be taxed against recipients and their employees. Moreover, this provision is not intended to deter or limit legal services recipients from obtaining fees and costs in any cases where they have successfully brought suit for their clients. Thus, if recipients win a case for their clients and persuade a court that it is appropriate, under a "private attorneys general" or other legal theory, that they should receive fees and costs, this bill would certainly permit the court to exercise its discretion in this regard.

Legislative and administrative representation by recipients is covered in section 1007(a)(5) of the bill contained in the conference report. As it now reads, the act prohibits any attempt to influence executive orders or legislation with two exceptions, namely, that the attorney has been requested to make such representations by the agency or legislature involved, or any committee or individual member thereof, or the attorney is acting on behalf of an eligible client and is pursuing an appropriate remedy with respect to the client's legal rights and responsibilities. This provision assures that the legislative and administrative activities of the numerous local legal

services programs and support projects may continue when the Corporation is established.

The purpose of the legal services program is to make lawyers available to individuals and organizations composed predominantly of eligible clients that need legal assistance with respect to their legal problems. It is not to provide a soap-box or source of income for individuals seeking to press ideological or sociological concerns of their own. The attorneys are not to be restricted in the full and efficient advocacy of their clients' cause, but it must be their clients' cause. At the same time the legislation makes available the expert services of the legal services attorneys to employees of agencies or legislators who may wish to draw on the knowledge or ideas that the attorney may have. Thus, the attorney may answer questions, testify, serve on an advisory body, or draft proposed legislation or rules, depending upon the request made.

In section 1007(a)(2)(B), we required that the Governors of the various States be consulted in setting client eligibility guidelines. The various factors relating to eligibility to be taken into account in the Senate and House bills were combined so that many factors are reflected. The criteria of section 1007(a)(2)(B)(iv) of course, do not include situations in which the determination which the client seeks to challenge is the determination that work has been refused or discontinued without good cause. There is not change in the expectation that information with respect to eligibility generally would be obtained solely through a simple form to be completed by the potential client, and that eligibility will be determined in a manner that produces utmost trust and confidence between attorney and client.

In section 1007(a)(8) the bill contains the House provision requiring that the suggestions of local bar associations be solicited before staff attorney positions are filled, and that preference be given to qualified persons residing in the community. This provision has the laudable goals of seeking a cooperative working arrangement with the local bar, and assuring that persons familiar with the local community are employed by the program to the extent a program is able to find qualified persons. This does not mean that a program is required to hire attorneys who will not serve the poor effectively or are otherwise not as qualified as other applicants.

Mr. HUGHES. The time has come to pass a bill and do away with the cloud of uncertainty which has hung over the legal services program around the country.

Resort to the courts for the solution of grievances is one of the most fundamental, enduring rights of citizenship. This ideal is readily embraced by most Americans as a fundamental right under our Constitution. As a matter of fact, the influence of our legal structure on the daily lives of most Americans is enormous. Permit me to quote from the testimony of a legal aid recipient before hearings I chaired in Iowa in April 1973:

The low-income people need the counsel of the law professions as much, if not more, than the middle and upper income classes. To say that these people do not have the right or the need is stupid. The average lawyer will not handle a case involving a low-income I feel, because of the lack of monetary gain. If America is a land of equal opportunity, then we must provide an equal chance for the low-income people to have counsel. The only way we have to meet a large portion of this need is the use of the legal aid agencies. The ghetto areas need these lawyers for all types of problems, but predominately because of business racketeers who have large operations in their areas. The ghettos also come under garnishments often and easier.

I am convinced that the effort to make legal counsel available to everyone has been one of the single most important programs launched by the Federal Government for needy Americans. In Iowa our legal aid programs have been successful in countless ways unknown and unrecorded, except by the recipients themselves. They have been a major force for good in the State, and with an ongoing Federal commitment they could do much more.

I ask unanimous consent that a number of news stories and editorials from the Iowa press be included in the RECORD at the conclusion of my remarks.

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

[From the Des Moines Register, June 14, 1974]

LEGAL AID FOR THE POOR

Congress has been struggling since 1971 to create a permanent Legal Services Corporation to operate legal aid programs administered by the Office of Economic Opportunity. The end of the struggle is in sight—provided the President does not veto the Legal Services Corporation Act.

President Nixon in 1971 vetoed one measure to create a corporation to provide legal services for the poor. The President said his chief objection was that he was empowered to name just six of the corporation's 17 governing board members. Congress upheld the veto and went to work to devise a substitute.

Different versions of a revised bill were passed by the House last year and the Senate this year. A conference committee report filed May 13 was approved by the House three days later. The Senate is expected to act soon to send the measure to the President.

The new bill calls for an 11-member governing board to be appointed by the President and confirmed by the Senate. The measure is honeycombed with restrictions to meet the objections of conservatives.

Legal aid lawyers, for example, are barred from providing "legal assistance with respect to any proceeding or litigation relating to the desegregation of any elementary or secondary school or school system." Lawyers for the poor are barred from giving legal assistance "with respect to any proceeding or litigation which seeks to obtain a non-therapeutic abortion" or from representing anyone in connection with a violation of the Selective Service Act.

A host of limitations are placed on the personal activities of legal aid lawyers. Legal services attorneys are barred even from taking part in non-partisan voter registration drives during non-working hours.

The measure is backed by legal aid supporters, despite the restrictions, in the belief that it provides the best chance for putting federally-financed legal services on a permanent footing. The corporation would provide protection against the efforts now launched annually to scuttle or sharply curtail the nationwide legal aid program.

Fears of a presidential veto are based on the earlier veto and concern that the President may be tempted to play "impeachment politics." The lawmakers most opposed to the legal services program are lawmakers the President may be able to influence on impeachment by catering to them on other issues.

It would be deplorable if the nation's poor were made the innocent victims of Watergate.

[From the Des Moines Tribune, June 21, 1974]

VOLUNTEER WORKERS POUR INTO ANKENY FOR CLEANUP

(By Gary Heinlein)

Volunteers from surrounding communities converged on Ankeny Friday to lend a hand—and heavy equipment—as the city of 10,000 persons began to recover from the devastation of Tuesday night's furious storm.

Crews and equipment were concentrated in five areas where mounds of rubble were still piled along city streets, City Manager Jeff Segin said.

Segin said a sixth crew was at work in an area where there was less debris to haul away.

Volunteers included city crews donated by Ames, Johnston, West Des Moines and Urbandale, plus young people from Polk City, Knoxville, Ames, Des Moines and West Des Moines. In addition, Segin said, several construction firms have sent in men and equipment without charge.

A log and sign-in sheet being kept at the cleanup command post at the Hy-Vee store parking lot on U.S. Highway 69, indicated that among the volunteers were 23 teenagers and four supervisors from the Ames Youth Conservation Corps.

Jerry Dunn, 41, supervisor of the Conservation Corps contingent, said:

"We just decided to come down for a day and help clean up. It was all the kids' idea."

Dunn said the youths had been working on bike trails and other facilities at Ames Municipal Park, and Friday was to have been one of the "education days" provided for under the Youth Conservation Corps program—a day on which the youths would have been relaxing and discussing environmental topics.

But Dunn said the 12 girls and 11 boys who are members of the group heard about the need for volunteer help in Ankeny and decided unanimously to come to the city's aid.

A member of the group, Pat Reynolds, 16, an Ames High School senior, said in an interview:

"I wanted to help. Some people say it was my idea to come down here, but I just heard it on the radio and told people about it."

Another Conservation Corps member, Anda Galejs, 15, an Ames High School sophomore, denied that the cleanup work was too heavy for a girl. "It's just as hard for everybody," she said.

"Some guys just have more muscle, that's all."

Ankeny Manager Segin said the city still needs volunteers, provided they come in groups and check in first at the Des Moines Area Community College from where they will be bused to work areas.

Segin said the clean-up operation—now in its third day—is expected to continue until late Sunday. By then, he said, the bulk of the heavy work should be finished.

"But our city crews will be busy for I don't know how long after that," Segin added.

The city, in effect, is "sealed off" in an effort to keep out sightseers, officials said, adding that they are on the lookout for "con artists" intent on making a "fast buck" from the misfortunes of residents with bogus real estate deals and rebuilding offers.

In addition, a midnight to 6 a.m. curfew remains in effect.

Main entrances to the city were being guarded by Ames police. Military police were aiding in traffic control.

"Our biggest problem is still traffic," said City Councilman Jack Leinen, who was manning a two-way radio at the Hy-Vee parking lot, keeping in communication with police directing traffic.

"Cars are getting into the areas where we are moving debris with heavy equipment and it's causing jam-ups," Leinen said.

Leinen said that the new traffic-control measures were initiated after an extremely heavy inflow of sightseers from south of the community that turned Thursday evening's clean-up efforts into "a fiasco."

"Cars were lined up as far south as you could see," Leinen said. "We sealed off the south entrance to the city."

Leinen said residents have reported seeing suspicious persons and cars in tornado-damaged neighborhoods.

In other developments:

Classes resumed Friday morning at the Ankeny campus of the Des Moines Area Community College and officials at the college said registration for summer arts and sciences classes will continue Monday and Tuesday until 8:30 p.m. each day.

Robert Oberbillig, director of the Polk County Legal Aid Society, said Friday that the society is providing free emergency legal services to "all residents of Polk County who have suffered loses as a result of the tornado and severe storm."

The society will have lawyers available to answer questions and give advice at the Ankeny City Hall, or at the society's offices at 102 E. Grand Ave. in Des Moines.

Oberbillig said the services will be available throughout the weekend and "as long as necessary" to provide assistance to people who have questions or problems.

U.S. Representative Neal Smith (Dem., Ia.) was due to tour the city at 9 a.m. Saturday, followed by U.S. Senator Dick Clark (Dem., Ia.) at 10 a.m. Sunday. They were to survey damage and confer with local officials about possible federal disaster aid.

George Frink, disaster chairman for the Central Iowa Chapter of the American Red Cross, said disaster welfare inquiries from anxious relatives and friends throughout the United States poured into the chapter at the rate of about 50-an-hour Wednesday.

All but about 10 inquiries had been answered Friday and others were still coming in, he said.

[From the Des Moines Register, Jan. 12, 1974]

CLAIM NEW HOUSING CODE WOULD HURT FARM FAMILIES

(By John Hyde)

Critics of a proposed state housing code said Friday the code would cause hundreds of unnecessary expenses for farm families if it were to go into effect as drafted.

The proposed code could also cause dissension in small towns and would be a step backwards in the fight for tenants' rights, the critics contend.

The housing standards were designed by the Iowa State Department of Health, which was mandated by the Sixty-fourth General Assembly to develop a new state-wide code. The code will go into effect in some form July 1.

About 100 state, county and municipal officials, as well as interested individuals, appeared Friday at a hearing in Des Moines to criticize and comment on the proposed code.

"UNIFORM" CODE

The code would apply "uniformly to the construction, maintenance, use and occupancy of all residential buildings" in Iowa, but one state official said it is uncertain whether it could be enforced in rural areas.

Norman Pawlewski, Iowa Commissioner of Public Health, said the attorney general's office has been asked to prepare an opinion on the code's applicability to rural housing.

Harold Anderson, director of local affairs for the Iowa Farm Bureau, said the code should not concern itself with "isolated farm dwellings."

The cost to many farm families forced to meet the code, said Anderson, would be "exorbitant and unnecessary."

Anderson argued that the need for a strong housing code exists primarily in urban areas, where congestion creates a potential for health hazards.

Another critic of the proposed code, Robert Oberbillig, director of the Polk County Legal Aid Society, questioned "the validity of the code as applied to single, owner-occupied units."

Oberbillig said many of his clients could not afford to meet the code's requirements without some form of subsidy.

"Unless we have something better to offer," said Oberbillig, "these people should be allowed to remain there."

Oberbillig's main complaint centered on the code's protection of tenants' rights, which he said would be a "serious step backwards" from existing law.

At present, tenants living in units not meeting housing codes can legally withhold rents from their landlords, as a sanction, Oberbillig noted. The proposed code would require that the local board of health seek an injunction against the landlord before rents could be withheld, he said.

SANCTION OF TENANT

"That puts the tenants' chief sanction in the hands of the board of health," he said.

He also said the proposed code offers inadequate protection against utility cut-offs as a means of eviction.

Richard Biondi, president of the Iowa Environmental Health Association and assistant director of the Polk County Health Department, praised the bulk of the code, but he argued for changes in a number of sections. Enforcement of the Code should be the responsibility of local health departments, he said. The proposed code currently is vague on the subject of enforcement responsibilities, he said.

The minimum heating capacity of units should be 70 degrees, Biondi said, instead of the 68 degrees now in the code. Biondi said the extra 2 degrees would provide an important measure of comfort for the elderly and children. He also argued that temperatures should be measured 18 inches from the floor, where infants are, rather than the three feet now in the code.

Biondi also asked that the appeal process be shortened from 21 to 10 days, and that second notices, now required by the code, be eliminated. He also suggested that local health boards not be given the power to grant variances.

Arthur Peterson, Clear Lake city councilman, said he could not understand why "a person who owns a home and is satisfied should be subject to these standards."

"You can't infringe on someone's personal happiness and come in and inspect someone's house and say you're not living right," he said.

The proposed code has no "grandfather clause", which means that it would apply to all buildings, including those constructed and occupied at the time the code goes into effect.

"I don't know where we'd find a man to enforce that code in Clear Lake," Peterson continued. "If we did, he would have to wear a suit of armor."

Peterson said he would probably have to resign from the Clear Lake City Council if the code goes into effect, because of public criticism he expects to result from enforcement of its provisions.

THE ENFORCER

"Well, Mr. Peterson, it looks like you're going to have to resign," said Choquette. "The law states that the code shall be enforced by local housing boards and other officials. We don't have anything to say about that."

The proposed code sets minimum standards of lighting, ventilation, heating and plumbing for residences, as well as standards for space and density. It establishes an appeals procedure and a system of fines for landlords not complying.

In spite of its faults, said health official Biondi, its adoption will make Iowa a "leader in the nation in providing safe housing."

Mr. STENNIS. Mr. President, I rise to voice my very strong opposition to the revised conference report on the Legal Services Corporation bill.

In this bill as it is presented to us, Mr. President, are organizations, mechanisms, and procedures that brook interference with justice, rather than promoting it. In this bill are the means of creating strife, and if enacted it will surely do so, and on a wide scale. This legislation carries the means to promote dissent and to compound it over and over again. It does so in the name of social justice. What it will promote is social discontent, and the most discontented will be the average solid citizens who go about their business of creating a good home for their families, a good community for them to live in, and a good Nation, founded on Christian principles and the free enterprise system. They are the ones whose rights are going to be imposed upon. They are the ones who will suffer from this totally unsatisfactory approach to settling social problems, and they are the ones who will pay for it, in hard cash out of their pockets to the tax collector—cash that they do not have because their paychecks cannot stretch far enough to cope with the inflation that already has their backs to the financial wall.

Mr. President, there is enough dissent in this Nation without Congress passing legislation to provide the means to create more of it. Our civil and criminal courts are jammed. Civic procedures are often hamstrung by small numbers of highly vocal dissenters. Community endeavors are delayed or halted by small groups who use the laws Congress has already passed to circumvent worthy endeavors. The accomplishment of the greater good for the greater number is already an uphill battle. This bill would insure that to get any large number of people together on any worthy enterprise is going to be harder than ever.

Mr. President, I believe that the American people are beginning to think that the Federal Government does not understand them, or their problems. The people do not understand some of the things the Congress does, and I do not blame them. They will not know why the Congress has unleased on them a system of lawyers dedicated to promoting litigation on a grand scale, regardless of the facts, and I would not blame them, based on what is in this bill.

There have been discussions of whether the President would veto this bill as presented. I have no personal knowledge of his intentions in this regard. It was my understanding that he would veto a bill that departed radically

from the proposal the President sent to Congress a year ago, embodying his recommendations for reform of legal services. I submit that this bill does depart drastically from the administration proposal. The funding of the so-called "back-up centers" was only one of many departures between the two concepts, in my opinion. A number of them were pointed out on the floor on July 10 by the distinguished Senator from North Carolina (Mr. HELMS).

There is the matter of a termination date for the Corporation, rather than setting it in stone, as a monument to misguided good intentions, to be a permanent infliction to haunt us forever. There is the problem of the legal costs of the innocent parties sued. There is the furtherance of the pursuits of the purposes of advocacy groups, whether or not they are aimed at the greater good of the majority, or even have merit in any way. There are many others. These are unwise departures from common sense, logic, and justice, and invite rejection on their lack of merit. I hope and urge that this body, in its wisdom, will reject them.

The deletion of the funding for the backup centers would be a step in the right direction. These regional supporting offices were referred to in the other body as "hotbeds of social activism," which in my view would be an accurate description. As pointed out, however, by the distinguished Senator from North Carolina, the conference report as amended would still permit funding of backup centers within the Corporation, rather than through outside agencies, and would allow the use of "public interest law firms" to accomplish backup center functions. I strongly support amendment No. 1575, as offered by the Senator from North Carolina, to preclude these means of funding backup centers.

Mr. President, even if the backup centers are in fact eliminated, I oppose the purposes of this legislation. It does not do what it purports to do. It does, unfortunately, do many unwise things which it does not purport to do. It should not be inflicted on Americans. I urge very strongly that the Senate reject this legislation.

Mr. NELSON. Mr. President, many staff members have assisted the committee throughout its deliberations on the Legal Services Corporation Act and we are indebted to them for their dedicated efforts. Among these are the Employment, Poverty, and Migratory Labor Subcommittee's counsel, Richard E. Johnson, and its associate counsel, Larry Gage, who have worked closely together with the minority counsel, John K. Scales. Among other staff members to whom special thanks are due are Roger Colloff of Senator MONDALE's staff, and Jonathan Steinberg of Senator CRANSTON's staff, as well as Randy Stayin, Roger King, and Robert Hunter of Senator TAFT's staff. Blair Crownover of the Senate Legislative Counsel's office assisted the committee throughout markup and conference committee sessions.

Mr. JAVITS. I join with Senator NELSON in expressing appreciation for these services from the staff persons whom he has just named and I wish to commend again Senator NELSON, the chairman of the subcommittee, Senator TAFT, the ranking minority member of the subcommittee, as well as Senator MONDALE and Senator CRANSTON, who have contributed so much in the long struggle to establish a Legal Services Corporation which now is only one final step from realization.

Mr. KENNEDY. Mr. President, the legal services bill now before the Senate, H.R. 7824, is the culmination of 3 years of hard work and compromise. It is a product of three long conferences, the latest lasting over 6 weeks. It represents, despite its much diluted nature, the final hope to maintain a program of legal services for the poor. I believe we owe a special debt to Senator NELSON, for his work and leadership over the past 3 years on this matter. Senator MONDALE, Senator JAVITS, Senator CRANSTON, and Senator TAFT also deserve the commendation of those who support legal services for the poor, for their efforts.

The history of the struggle for an independent Legal Services Corporation began in 1971. Congress and the administration then endorsed the transfer of the national legal services program from the Office of Economic Opportunity to an independent Legal Services Corporation.

However, in 1971, the President vetoed legislation establishing that Corporation. In 1972, a revised bill died in conference under the threat of a second veto.

In both instances, the President insisted on full power to appoint the Corporation Board of Directors, while Congress urged that the board include nominees of various national legal professional organizations such as the American Bar Association and the Association of American Law Schools.

Our concern then and our concern still is to insulate the new Corporation from political pressures and insure that it will be responsive to the needs of the poor rather than the policies of the White House under any administration.

Despite these objectives, we were unable to persuade the White House to accept a truly independent board of directors. Therefore, during 1973, the Senate Labor and Public Welfare Committee worked closely with the White House staff to fashion a bill that acceded to the administration position regarding board composition. It also recognized administration concerns in a number of other areas, particularly involving the acceptance of additional restrictions on the permissible activities of the individual legal services attorneys.

While I opposed those restrictions as representing a view that the poor were not entitled to the same legal rights as other citizens, the restrictions were part of an agreement negotiated with the administration in return for its support of the bill.

The final product was approved in writing by Melvin Laird, former counselor to the President, by the American Bar Association, by numerous public interest organizations, and by many editors and columnists.

That bill was approved by the Senate after the House had passed a more restrictive version.

In the conference, we moved even further toward the administration's position. The conference report was a compromise; but it was a compromise that assured the continuation of all vital elements of the current legal services program, including backup centers.

Following the conference, some 30 Governors reiterated their support of an independent Legal Services Corporation. The American Bar Association also repeated its endorsement along with the heads of 22 State bar associations.

Even with that support, the White House sent its emissaries to the Congress to demand one more pound of flesh from the legal service program, or else the bill still would be vetoed by the President.

The demand was that legal services backup centers be removed. It is interesting to note that in the original administration bill, and in its previous agreement with the Senate on the Senate bill, the administration had not objected to the backup centers. Only recently has the conservative objection to those centers drawn full administration support.

In fact, the backup centers have been a successful and effective aspect of the legal services program for the past several years. They have offered research, technical assistance, and training relating to the delivery of legal assistance for new lawyers—assistance that has improved the quality of legal services programs around the country.

It is important to recognize that a GAO evaluation specifically commended the backup center effort to achieve reforms in the legal system in behalf of the poor.

It also was their success, not their failure, that angered conservative groups and drew the ire of the White House.

They have carried to the highest courts in the land cases on behalf of the poor—and many time they have won.

For an administration that was once so outspoken in defense of law and order, the backup centers should have been proud symbols of the best way for legal grievances to be resolved.

Instead, this administration demanded that the Congress—if it desired any legal representation for the poor at all—radically alter the operation of these centers.

I did not accept that compromise until it became evident that it was the only way to avoid a veto and until House leaders stated that a veto could not be overridden.

I am convinced that the functions the backup centers were providing will have to be maintained by the new Corporation. I shall discuss later the possible ways for this to be done. It is difficult to imagine that a corporation will not find it necessary to provide training to new lawyers, to provide research and a central clearinghouse for information for the various legal services programs and will not be ready to provide technical assistance relating to the delivery of legal assistance as well.

What has been done, however, is to interfere with the best way of accomplishing those functions—that is using our universities and law schools with

their reservoir of legal talent—to continue to undertake those services. Instead, the Corporation will have to undertake those services on its own.

Recently, there has been some argument advanced that even now a veto is possible. A veto now would be the height of cynicism. A Boston Globe editorial is even more apt now than when it appeared on June 5, it stated:

Further it would be particularly irksome for the President to veto a bill providing legal aid to poor people while the American taxpayers are spending untold sums, perhaps in the millions of dollars, for Mr. Nixon's legal defense.

Mr. Nixon should sign the legal services bill when it reaches his desk. Failure to continue the program would not only deepen the disillusion of this country, but would corrode its underpinings of justice.

I believe that after 3 years of compromise between the Congress and the administration of this legislation, there is no excuse for any further delay in its enactment. No further compromises in reconciling those who believe there must be an independent legal services program for the poor, and those who object to that concept, can be made.

If the President chooses to veto this bill, it would mean that the administration has finally decided that the poor are not entitled to due process of law.

I opposed the inclusion of the present restrictions in this bill because I believe that legal advocates for the poor deserve to have the same freedom to defend the rights of the poor as attorneys for other groups in our society. Despite the restrictions, I urge that the amended bill before us be passed since it is the only vehicle to provide for the establishment of a separate Legal Services Corporation. Also, it is the only vehicle to carry us closer to a time when the poor of this country will be assured equal justice under law.

Mr. President, I also want to call attention to the remaining provisions of this bill which are important to insure that adequate and effective representation continues in the new Legal Services Corporation.

The governing body of the Legal Services Corporation will be an 11-member board of directors that is to be nominated by the President and confirmed by the Senate. We expect that the nominees to the board will be broadly representative of the organized bar, the client community, and the legal services lawyers, and that they will have already demonstrated an understanding and commitment to the principles found in the statement of findings and declaration of purpose of the act. It is my hope that the President will make appointments to the board as soon as possible after he signs this bill.

The conference bill provides for State advisory councils, whose sole function will be to notify the Corporation of apparent violations of this act. We used the word "apparent violations" because we definitely do not expect the councils to conduct investigations or hearings. That is the responsibility of the Corporation. Any meetings of these and any other advisory councils will, of course, be open to the public, in accordance with section 1004(g). No provision is made for resources to provide staff for these councils, and we do not expect the very limited resources of the Corporation to be used for such purposes, since it is expected that they will function only when necessary to provide the required notifications.

Under OEO, the National Advisory Council on Legal Services was a valuable body that provided input into the program from the organized bar, the client community, and the poverty bar. This act, like the Economic Opportunity Act, does not require the Corporation by statute to continue such an advisory council, but we fully expect that the Corporation board will do so, and will place on it people who have a demonstrated commitment to the provision of effective legal services to the poor.

Originally the Senate version of this bill had several provisions, such as the one contained in section 1005(e)(1), that precluded Federal bureaucratic and political control of the Corporation and its personnel. In conference, several of these provisions were dropped because it was felt that they were redundant. Now section 1005(e)(1) is designed to shield the Corporation from political interference. Similarly the bill recognizes that there are conflicts of interest or political influence problems with grants to State and local governments. This is why we have prohibited such grants except in highly unusual circumstances and only then upon a special determination by the Corporation board.

In two sections, 1006(d)(5) and 1007(a)(7), the local board of the recipients is required to establish guidelines to insure the efficient handling of class actions and appeals. These provisions are not to be interpreted so as to unethically restrict or even discourage program attorneys from bringing class actions or appealing cases on behalf of clients. The General Accounting Office issued a lengthy study in March 1973 which concluded that legal services programs should, in fact, resort more often to class actions and other economical law reform techniques that can result in more benefits to larger numbers of clients and potential clients. In any case, local boards should be especially careful not to interfere, in any way, in the attorney-client relationship.

The conference bill provides in section 1006(f) for the award of reasonable attorneys fees, to be paid directly by the Corporation, in instances of a court finding of malicious abuse of process. This process should not be read so as to restrict the award of attorneys fees to a legal services program funded by the Corporation. Indeed, we expect that the courts will award fees to legal services programs in cases where an award would be made to a private attorney or where such offices are functioning like "private attorneys general." Similarly, section 1007(b)(1) does not prohibit the award of attorneys fees when, for instance, damages are sought in cases local bar members do not wish to handle. We expect the Corporation to promulgate guidelines continuing current practices in OEO legal services; that is, if several members of the local bar or the local bar referral service express a lack of desire to handle a given fee-generating case, then it may be handled by a legal services lawyer.

In disqualifying potentially eligible clients from legal services under section 1007(a)(2)(B)(iv), because of a prior determination that the client is "voluntarily poor" and refuses to work, it is expected, of course, that the client will be eligible for services in order to rectify or challenge such a prior determination. Moreover, eligibility for legal services will be determined through a simplified self-declaratory form that is most conducive to establishing a trusted attorney-client relationship.

This bill contains several provisions that, while they are restrictive in tone, are aimed at curbing alleged abuses and are not to be construed as prohibiting an attorney from fully, effectively and aggressively representing an eligible client. For example, section 1007(a)(5) prohibits funds to be used to affect the legislative or administrative regulatory process unless an attorney is representing an eligible client or is so requested by a legislator or agency. This provision does not preclude the continuation of current programs or program offices, nor does it preclude attorney participation on governmentally or privately appointed boards, commissions, or organizations. In representing a client, or a group of persons predominantly composed of eligible persons, or responding to a request from a legislator or agency, the attorney may draft model statutes and court rules and comment on existing legislation as well as participate fully in hearings, and all other public and private aspects of the legislative and administrative process, just as a retained attorney would do on behalf of a paying client.

Section 1007(b)(4) limits juvenile representation to the areas provided in that section. It should be noted, however, that the "benefits" and "services" referred to in 1007(b)(4)(D) relates to all of the rights a juvenile should enjoy pursuant to the Constitution, statutes, and court decisions. And, while we have prohibited litigation initiated against the child's parent, we do not mean to prohibit suits where parents or guardians become defendants or respondents to an action subsequent to its initiation. Furthermore, this prohibition refers only to litigation against parents and guardians, not legal advice or the like. I might just add that when this prohibition uses the word "guardian," it does not refer to an institution, institutional official, foster parent, or the like.

Section 1007(b)(6) prohibits certain activities unless the attorney is representing eligible clients or an eligible client group. We have not meant to curtail any existing or continuing representation of national, State, and local poverty organizations. We expect that program attorneys will continue to act as corporate counsel to such organizations if such groups are composed primarily of eligible clients.

There are absolute prohibitions on certain types of cases in sections 1007(b)(6), 1007(b)(7), and 1007(b)(8). Because these cases were not limited under the existing program and since, to require programs to terminate cases upon enactment of this legislation would act like an ex post facto law and possibly violate the Code of Professional Responsibility, we expect that clients now being represented in these types of cases will continue to be represented to the final termination of their case.

Several provisions of the Legal Services Corporation Act seek to insure the hiring of quality attorneys and to focus those attorneys' full energies on the problems. For example, section 1007(a)(8) requires preference to be given to applicants who reside in the community to be served for attorney staff positions. Before any preference can be given, however, such applicants must be qualified by experience, commitment to the goals of the program, academic excellence, background, and second language proficiency where relevant. If all such factors are weighed evenly among individual applicants, preference should be given to local residents.

So that their full attention will be given to the problems of poor people, section 1006(b)(4) prohibits program attorneys from engaging in the outside compensated practice of law. It is expected, however, that they will be allowed and encouraged under guidelines established by the Corporation to fulfill, without compensation, the civic duties that all members of the legal profession are called upon to perform.

The bill authorizes $90 million for fiscal year 1975 and $100 million for fiscal year 1976. Some of us believe this level of funding is much too low. We certainly expect it to be no lower.

Section 1012 is intended to allow the Corporation the full benefit of such governmental services as FTS, GSA, and similar facilities for the sake of efficiency, economy, and wise use of taxpayers' money. For the same reasons, many of the same facilities should be made available to recipients.

Section 1010(c) limits recipients'—except those serving Indian populations—use of private foundation funds—as defined in the Internal Revenue Code—for purposes prohibited by this act. This does not, of course, affect any public funds.

One change has been made in the conference bill in order to assure that the President will sign this legislation. That change relates to backup services that are provided to aid legal assistance lawyers with their cases: training, technical assistance, clearinghouse of information, and research. These services, when provided solely as a separate backup for the litigating attorneys shall be transferred from university-based centers to the Corporation.

This compromise is not intended to inhibit the provision of high-quality legal services by offices serving city, local, State, or nationwide clienteles. Such functions cannot be performed by the Corporation, particularly because section 1006(c)(1) of the bill prohibits the Corporation from litigating in behalf of clients. Thus, offices that provide legal assistance to clients throughout the country, whether established for general representation purposes or for representation purposes or for representation on specialized subject matters, will continue to perform their vital legal assistance functions without any interference. They, of course, should expect, from the Corporation, backup research, training, technical assistance, and clearinghouse of information help on their litigation—help which is now provided by independent grantees or contractees.

The Corporation must acquire expert personnel for the performance of these backup services. Since the hiring and training of these people will take some time, and insofar as it is our intention that there will be no interruption in the provision of these vital services, we expect the current backup centers to continue this work until a reasonable transition can be effective after the Corporation is fully operating. This will give the Corporation time to provide these backup services in an uninterrupted and appropriate manner. And, once the Corporation undertakes these functions, it can do so by providing all of these services through its office in Washington or through regional and local offices established under its auspices.

While I reluctantly support this bill in its present form, because of the backup services provision, I fully expect the Corporation to continue to use the developed experience and expertise of the existing legal services programs that have served their clients so well. It is my fervent hope that those practicing under the Corporation will remain free from political influence, unethical practices, and interference in the attorney-client relationship. I intend to watch the Corporation's development with a critical eye to insure that the poor of our Nation receive equal justice under law.

I ask unanimous consent that two editorials on this subject by the Boston Globe and the Boston Herald-American be printed in the RECORD.

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

[From the Boston Globe, June 5, 1974]

OF MR. NIXON AND LEGAL AID

In the tradition of the Homestead Law and the Civilian Conservation Corps of other periods, the federally-subsidized legal services program has provided a better shake for millions of poor Americans in the past decade.

In 1973 alone, 500,000 needy Americans benefited from legal representation that almost certainly would have been beyond their means without the Federal support. For many old, infirm and powerless persons, this access to legal counsel stands as their only hope for redress of injustice: an unlawful raise in rent, repossession of a refrigerator, or discharge from a job. But now the Federal program is in jeopardy.

In 1971, President Nixon vetoed legislation to establish an independent, non-profit corporation to oversee the legal services agency. The veto prevented the transfer of the agency outside the jurisdiction of the Office of Economic Opportunity (OEO).

This year, a House-Senate conference committee has reported a compromise version of the bill Mr. Nixon rejected three years ago. The House last month approved the amended bill, but by a vote less than the two-thirds majority necessary to override a presidential veto. Final action on the bill in the Senate is expected this week.

If Mr. Nixon vetoes the bill this year, it almost certainly will mean the demise, as of June 30, of the legal services program, for Congress is proceeding apace with the dismantlement of OEO.

The compromise bill provides for a $190 million, two-year appropriation for legal services. It accords with the President's stipulation—the rationale for his 1971 veto—that he have the authority to appoint all 11 directors of the legal services corporation. As a further concession to conservatives, it would restrict more extensively than its 1971 predecessor the power of legal service attorneys to engage in political activities and litigate controversial cases, such as those involving abortions, racial desegregation and the Selective Service.

The legislation has the support of the American Bar Assn. and the bar associations in numerous states, including Massachusetts. But conservatives, most notably former OEO director Howard Phillips of Danvers, have been pressing Mr. Nixon to veto the bill, even in its diluted form.

The conservative Washington weekly, Human Events, reported that at least one "leading conservative Republican congressman," whose name was not disclosed, threatened that he would vote for Mr. Nixon's impeachment unless the President vetoed the legal services bill.

It would be a travesty if Mr. Nixon yielded to such coercion. Further, it would be particularly irksome for the President to veto a bill providing legal aid to poor people while the American taxpayers are spending untold sums, perhaps in the millions of dollars, for Mr. Nixon's legal defense.

Mr. Nixon should sign the legal services bill when it reaches his desk. Failure to continue the program would not only deepen the disillusion in this country but also would corrode its underpinnings of justice.

[From the Boston Herald American, June 14, 1974]

EQUAL JUSTICE FOR ALL

It is an almost foregone conclusion at this point that Congress will go along with the administration in dismantling the federal Office of Economic Opportunity through which the Great Society's war on poverty was conducted.

But one of the phases of that federal effort to aid the needy—legal services for the poor and disadvantaged—is now given a fair chance of survival after almost four continuous years of controversy.

Recenty, the governors of 28 states, the American Bar Ass'n, the heads of 22 state bar associations and a congressional conference committee endorsed the plan to establish an independent, non-profit national corporation to provide proper legal counsel for those who could not otherwise afford it.

House Rule 7824 subsequently has been passed by the House and is expected to be taken up shortly in the Senate. The new Corporation would succeed OEO's Legal Services Program which had come under considerable fire because so much of its activity was directed towards the government itself.

But the years of trial and error have compromised different versions to make them more acceptable to all sides in Congress and in the administration. Some of the more controversial elements have been eliminated by absolute prohibitions against such activities as abortion, school desegregation and amnesty cases.

Even with these and other deletions—

with which we are inclined to agree—there are still many other legal services that need providing for a great body of the citizenry if all are to receive, in fact, the equal justice under the law to which they are entitled in constitutional theory.

President Nixon has twice submitted messages since 1971 calling for the Legal Services Corporation; and though radical changes proposed by Congress led to threats of White House veto, most of those differences have now been resolved and the changes of passage are brighter now than ever before.

Mr. MATHIAS. Mr. President, if the concept upon which our Republic was founded—equal justice under the law—is to have any meaning in our adversary system of legal representation, then every individual must be provided the means whereby he can enforce his rights and redress his grievances. The Legal Services Corporation bill provides the opportunity to do just this—creating an independent structure to assure all Americans regardless of their economic position that they will have the assistance of a competent lawyer to pursue their just objectives aggressively within the framework of our judicial system.

I have seen the ability to accomplish this in my own State of Maryland. The Legal Aid Bureau, through funding receiving from OEO since 1966 has provided lawyers throughout the Baltimore metropolitan area, in those very areas where low-income populations are most prevalent. This program has provided a law firm for the poor that in its last year of operation served over 35,000 low-income citizens. The most common thread in all these cases was a lack of money to pay a lawyer. But the legal problems handled by these poverty lawyers covered the myriad day-to-day crises of the poor—evictions from homes, family problems, overreaching by unethical, fly-by-night sales artists, and countless problems with the bureaucracy of governmental agencies that touch upon the lives of the poor on a daily basis.

Lawyers funded by Federal programs have assured the poor of effective representation, and given to them the confidence that the law and the courts are a valuable tool accessible to them on a basis comparable to that of a person fortunate enough to be able to afford his own representation. New meaning has, therefore, been given to the concept of equal justice under the law, for the low-income community.

This bill creating the Corporation comes to us after a great deal of debate and fine study. It represents the best that can be done under all the circumstances. For example, there are checks on any kind of partisan political activity by Legal Services lawyers, assuring that legislative advocacy is solely to pursue the objectives of the low-income client community. Of importance is the Board makeup of this Corporation, regarding the composition and selection of board members, and providing for national and local advisory boards to assure input from every level. But most importantly, perhaps, is the clearly recognized protection in the bill of the vital attorney-client relationship.

The bill in short provides assurance to the low-income community of a meaningful commitment by our Government to the principle of equal justice under the law. The record of Legal Services under OEO is one which gives strength to the belief that this bill will create a corporation to continue this fine tradition of service. I, therefore, have no hesitation in giving my full support to this bill and urge its acceptance with no further amendments.

Mr. President, I ask unanimous consent that the following documents be printed in the RECORD at the close of my remarks:

First. Memo and resolution from the American Bar Association regarding H.R. 7824;

Second. A letter from the Maryland Bar Association stating its position on the bill;

Third. An editorial from the Baltimore Sun of July 8, 1974;

Fourth. A copy of a newspaper column by James J. Kilpatrick on the legal services bill; and

Fifth. An excerpt from the annual report of the Legal Aid Bureau of Baltimore, Inc., showing the type of services rendered during a recent year.

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

[From the American Bar Association, May 24, 1974]

MEMORANDUM—BOARD OF GOVERNORS ACTION ON LEGAL SERVICES CORPORATION LEGISLATION

To State and Local Bar Associations listed in ABA Redbook.
From Chesterfield Smith.

I am pleased to transmit for the information and appropriate action of your association a resolution adopted by the Board of Governors of the Association at its meeting in Washington, D.C. yesterday. The Board, in reaffirming the Association's support for a national legal services corporation, specifically urged favorable action on H.R. 7824 upon the Senate and enactment of the legislation, if passed, on the President.

The legislation, unanimously approved by a Committee of Conference of the House and Senate, has been passed by the House and is expected to be taken up by the Senate shortly after the Memorial Day recess. There has been considerable pressure mounted by the opponents of legal services to secure a veto of the legislation when cleared by the Congress. While I personally am inclined to the belief that the President favors the legislation, I am hopeful that those who support legal services will contact the White House so that the President will have that information.

A copy of the Conference Report is being forwarded to the state bar office with this memorandum. Please contact John Tracey of the Association's Washington Office for further information or any assistance needed on this matter by your association.

CHESTERFIELD SMITH.

Enclosure.

RESOLUTION ADOPTED BY BOARD OF GOVERNORS, MAY 23, 1974

Whereas, The American Bar Association since 1970 has vigorously supported the enactment of legislation authorizing a federally-funded, nonprofit corporation to succeed the Legal Services program of the Office of Economic Opportunity; and

Whereas, The U.S. House of Representatives on May 16, 1974, passed H.R. 7824, the Legal Services Corporation Act of 1974, as reported by a Committee of Conference of the House and Senate; and

Whereas, H.R. 7824 reflects a compromise of differing versions of legislation passed by both Houses of Congress after four years of Congressional consideration of the concept of a legal services corporation during which period the interests and concerns of all interested constituencies, including the organized bar, have been fully considered, debated and resolved; and

Whereas, H.R. 7824, in its current form provides framework which will allow the continuation of a professional program of legals services to the poor;

Now, therefore, be it resolved, That the American Bar Association reaffirms its support for a National Legal Services Corporation; and

Further resolved, That the American Bar Association urges the United States Senate to expeditiously act favorably on H.R. 7824; and

Further resolved, That the President of the United States is urged to approve and enact H.R. 7824 if and when it is approved by the Senate; and

Further resolved, That the President of the American Bar Association is authorized to communicate the position of the Association to the Senate, the President and to state and local bar associations.

MARYLAND STATE BAR ASSOCIATION, INC.,
Baltimore, Md., June 26, 1974.

JOSEPH A. MATERA, ESQ.,
Baltimore, Md.

DEAR JOE: At the June 13, 1974 meeting of the Board of Governors the Board took the following action:

"The Secretary reported on the actions of the Executive Committee in a conference call meeting held June 5, 1974, and on motion of the Secretary, the Board ratified the following resolutions which had been adopted at that session by the Executive Committee:

"*Resolved,* That the Maryland State Bar Association, Inc. recommends that President Nixon sign the Legal Services Corporation Bill into law.

"*Resolved,* That the Maryland State Bar Association, Inc. urges President Nixon to appoint Norman P. Ramsey, Esquire to the Board of the Legal Services Corporation."

If any action is required I am sure you will be in touch with Hal or Norman.

Sincerely,

MANLEY E. DAVIS, JR.,
Executive Director.

[From the Baltimore Sun, July 8, 1974]

A RIGHT-WING CAPTIVE

Government is supposed to be the art of the possible, which means compromise. For three years now Congress has been trying to work out a compromise plan for a Legal Services Corporation. Three separate bills have been written, two of which were re-written in compromising conference committees—and yet still no law has come forth. This idea of providing legal assistance to the poor with an organization which is isolated from political pressures is a tough one to work out to every politician's satisfaction.

Now apparently the best compromise possible has been reached. The most recent Senate-House conference committee agreed to just about all of the key demands of the House. House members preferred a tough and limited bill, with very strict limitations on how far poverty lawyers could go. The House version of the bill was more in line with President Nixon's proposal than was the Senate version. On only one really significant point did the conference committee go along with the Senate. That had to do with using "back-up centers" when the resources of the corporation were not adequate in regard to research, technical assistance and special training. The House's chief spokesman for banning the use of back-up centers, John Ashbrook, (who said in debate that the conference version of the bill was much more like the House version than Senate version)

tried and failed to get the House to insist on this ban.

Thus the stage was set for a conservative, Republican, Nixon-leaning compromise. The House accepted it. The Senate is expected to when it returns from the July 4th recess. But now rightwing Republicans with California Governor Reagan in the fore are pressuring the President to announce that he will veto the bill, and some followers of the story believe the President might veto his own bill just to mollify his surest allies in an impeachment battle.

If this is true, it will be the second time that the President has abandoned his own best ideas for a reason related to impeachment, not the substance of the issue itself. (The first time was land use.) This puts the nation in an unusual and dangerous situation—enthralled to its far right wing. Compromise will be dead. This is one more reason why the impeachment question needs to be settled promptly one way or the other.

[From the Washington Star-News, May 29, 1974]

FAULTY BILL, BUT WORTH A TRY

(By James J. Kilpatrick)

The legal services bill that emerged from conference committee a couple of weeks ago is far removed from the simple straightforward program urged by the President last year. The bill contains several provisions that conservatives view with suspicion.

Yet on balance, the measure holds the prospect of much more good than ill. The President should let it become law.

I am aware that many of my brothers in the conservative community disagree strongly with that view. The respected weekly, Human Events, asserts flatly that "Nixon Must Veto Legal Services Corporation." Ohio's John Ashbrook fought skillfully for recommittal of the bill, and lost by only half a dozen votes. I wish he had won.

It is not always true in politics that half a loaf is better than none: The half loaf may be moldy. But it is generally true that King Compromise rules. He is no bad monarch. In the matter of the legal services bill, neither conservatives nor liberals got all they had hoped for. The question is whether the conference bill is better than no bill. I think it is.

The Congress is concerned here with a fundamental principle of American life. This is the ideal of "equal justice under law."

I would suppose that few of my conservative brothers oppose this principle, and I would suppose that few of them believe the principle is now well served. Despite great improvements in recent years, especially in fields of criminal law untouched by the pending bill, the poor are still far removed from "equal justice."

The paramount purpose of a legal services program is to narrow this gap. We live, all of us, like so many flies floundering in a web of laws, rules and regulations.

The well-to-do family, equipped by education, income and experience, may be able to cope with these complexities. The poor family, often functionally illiterate or handicapped by barriers of language, is frequently helpless.

The President's idea of a proper legal services program was to create an agency that would serve this paramount purpose only—an agency that would limit itself to basic, conventional legal aid.

The new federal corporation that would be created under this bill would be in a position, of course, to provide such fundamental aid. One hopes the directors, advisory committees, and working attorneys will have sense enough to hew to this line.

Unfortunately, the conference bill wound up with enough deceptive and uncertain language to leave justified apprehensions hanging in the air.

The bill takes the form of an amendment to the existing but discredited Economic Opportunity Act; the effect is to give congressional custody of legal services not to the judiciary committees, but to the highly liberal committees on labor and public welfare.

The bill continues, though for a limited time, the 13 "back-up centers" whose gaudy activism did so much to subvert the basic purposes of the former program under OEO. There is one provision, hard for me to understand, that may permit participating lawyers to promote social causes under the pretense that they are serving the armband brigades "on their own time." The provision smells fishy.

But there is also much that is good in the conference bill. The Senate receded in conference from some of the language that had set off alarm bells. In its final form, the bill bristles with prohibitions against political activity in the name of legal services. There seem to be abundant safeguards against the fostering of hot-dog radicals out to have a sensational time.

If the President will appoint a good solid board of directors for the Legal Services Corporation, and name the solidest of these appointees as chairman, it should be possible to expurgate the old abuses and get the program off to a constructive start. The venture may fail, but as we love equal justice, it is worth a try.

ANNUAL REPORT OF THE LEGAL AID BUREAU OF BALTIMORE, INC.

Services—1972

Total requests for assistance, all offices	35,226

TYPES OF CASES

Sales contracts	1,361
Garnishment and attachment	181
Wage claims	261
Bankruptcy	175
Other consumer and employment	1,633
State and local welfare	1,419
Social security	485
Workmen's compensation	186
Veterans' Administration	129
Unemployment insurance	652
Other administrative	1,161
Private landlord and tenant	2,636
Housing code violations	332
Public housing	139
Other housing	904
Divorce and annulment	5,888
Separation	2,651
Nonsupport	2,017
Custody and guardianship	1,665
Paternity	182
Adoption	312
Other family	1,961
Torts	[2] 1,006
Juvenile	324
School cases	31
Misdemeanors	777
Other criminal	1,225
Commitment procedures	284
Other miscellaneous	3,434
Prison assistance	[2] 1,815

SERVICES RENDERED [1]

Referral to:	
Lawyer referral services	3,610
Other grantee programs	107
Social agencies	442
Other	2,181
Consultation and advice	17,835
Completed with court action	2,772
Won	1,907
Lost	146
Settled	209
Client sustained on appeal	3
Prison assistance	[2] 1,806

[1] Services Rendered are noted after case is closed.

[2] Prison Assistance Statistics for period January through December, 1972.

[3] Referred to Lawyer Referral Service, or non-liability advice, non-insured defense, etc.

Mr. WILLIAMS. Mr. President, I am extremely distressed by the step we have had to take in order to gain assurances from the President that he will sign the Legal Services Corporation bill. I believe that the backup centers, which have been so vehemently but unjustifiably attacked on both sides of the aisle, have been a vital element in the provision of high-quality legal services to the poor.

However, I support the bill as it now stands because I believe that it is the only means we have for insuring the continuance of the Legal Services program. I understand that the vital functions now performed by the backup centers will not be allowed to die.

The language of the House bill, which we are adopting, authorizes the Corporation to undertake research, training, technical assistance, and clearinghouse activities. If local, State, and national Legal Services offices, burdened by high caseloads, are to remain abreast of the latest legal developments and make the most efficient use of staff time, the Corporation must accept its responsibility to provide these four services. Moreover, it must provide them in what it deems to be the most effective way, which may well mean locating its research, training, and technical assistance offices in different parts of the country.

The change from the conference report to which we will be agreeing will not affect the furnishing of a full range of legal assistance to eligible clients on a local, State, or national level. If this assistance is to be as complete and effective as possible, grantees under section 1006(a)(1) must, of course, be permitted to do research on their cases, and training of their own staffs, just as any private law firm does. Moreover, grants to programs providing legal assistance in specialized subject areas, or serving populations with unique problems, such as Indians or migrant workers, will probably remain necessary and shall, therefore, be continued.

Since backup services to neighborhood Legal Services programs are so important, they should be continued without interruption while the Corporation is being organized. In order to do this, funding to the present centers will have to be continued until the Corporation has hired and trained the staff necessary to perform research, training, technical assistance, and clearinghouse functions. Hopefully, this process will not take more than 6 months or so after the Board of Directors has met.

Thus, the Legal Services Corporation bill we are now considering, with the House language in section 1006(a)(3), should enable the full complement of services to programs, and legal assistance to the poor, to be provided without the abuses many fear from the performance of the support services by grantees.

Mr. HART. Mr. President, last week, I hoped to be able to lend my support and vote to the conference report on the Legal Services Corporation Act. That report, though creating a corporation with severe limitations on the types of services that could be provided and highly questionable controls on the staff attorneys

funded through it, did at least preserve the vital components of the present legal services program. The process in which we are now engaged, based on an agreement between the administration and the Senate leadership on this legislation, will restructure the legal services program by placing the backup functions of research, technical assistance, and training directly under the corporation.

The backup services have been critical to the effective representation of the poor by the 13 federally funded legal services programs in Michigan. Local attorneys, often overworked in severely understaffed programs, were vitally dependent upon national backup assistance. They relied upon current developments in national poverty law specialties, research on complex issues, the training of young attorneys in litigation skills and substantive areas not covered by traditional legal education.

These services and more were made available to legal services attorneys in Michigan's State and local programs to enable them to successfully carry out their professional responsibilities.

It is clearly not the intent of this legislative compromise to eliminate these vital services or even to reduce their scope. Some of the backup functions—research, training, technical assistance—will be carried on directly by the corporation either through in-house centers or other mechanisms including the purchase of consultant services from those experienced in their delivery. Local or State programs could be provided funds to assure that training of the younger attorneys was carried out.

Nor is it the intent of this legislation to alter the delivery of legal services to eligible clients by national, State, and local programs funded with the capacity to carry on specialized litigation, administrative, or legislative representation, appellate assistance, and group representation. The OEO legal services program has wisely funded such programs to make available to our citizens who cannot afford lawyers the opportunity for full and complete professional representation wherever legal assistance is necessary. This legislative compromise provides authority to the corporation under section 1006(a)(1) to assure the continuation of the vital litigating and advocacy programs in Michigan.

The PRESIDING OFFICER. The question is on agreeing to the motion to concur in the House amendment with an amendment. On this question the yeas and nays have been ordered, and the clerk will call the roll.

Mr. JAVITS. Mr. President, this is a yea-or-nay vote on the Helms amendment.

The PRESIDING OFFICER. The Senator is correct.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Hawaii (Mr. INOUYE), the Senator from Louisiana (Mr. LONG), and the Senator from Arkansas (Mr. FULBRIGHT) are necessarily absent.

I also announce that the Senator from Colorado (Mr. HASKELL) is absent because of illness in the family.

Mr. GRIFFIN. I announce that the Senator from Kentucky (Mr. COOK) is necessarily absent.

The result was announced—yeas 34, nays 61, as follows:

[No. 315 Leg.]

YEAS—34

Allen	Dole	McClellan
Bartlett	Dominick	McClure
Bellmon	Eastland	Nunn
Bennett	Ervin	Randolph
Brock	Fannin	Roth
Buckley	Goldwater	Scott,
Byrd,	Griffin	William L.
Harry F., Jr.	Gurney	Stennis
Byrd, Robert C.	Hansen	Talmadge
Chiles	Helms	Thurmond
Cotton	Hruska	Tower
Curtis	Johnston	Young

NAYS—61

Abourezk	Hatfield	Nelson
Aiken	Hathaway	Packwood
Baker	Hollings	Pastore
Bayh	Huddleston	Pearson
Beall	Hughes	Pell
Bentsen	Humphrey	Percy
Bible	Jackson	Proxmire
Biden	Javits	Ribicoff
Brooke	Kennedy	Schweiker
Burdick	Magnuson	Scott, Hugh
Cannon	Mansfield	Sparkman
Case	Mathias	Stafford
Church	McGee	Stevens
Clark	McGovern	Stevenson
Cranston	McIntyre	Symington
Domenici	Metcalf	Taft
Eagleton	Metzenbaum	Tunney
Fong	Mondale	Weicker
Gravel	Montoya	Williams
Hart	Moss	
Hartke	Muskie	

NOT VOTING—5

Cook	Haskell	Long
Fulbright	Inouye	

So the motion to concur in the House amendment with an amendment was rejected.

The PRESIDING OFFICER. The question recurs on the motion to concur in the House amendment to the Senate amendment to H.R. 7824. 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 Hawaii (Mr. INOUYE) and the Senator from Louisiana (Mr. LONG) are necessarily absent.

I also announce that the Senator from Colorado (Mr. HASKELL) is absent because of illness in the family.

Mr. GRIFFIN. I announce that the Senator from Kentucky (Mr. COOK) is necessarily absent.

I further announce that, if present and voting, the Senator from Kentucky (Mr. COOK) would vote "yea."

The result was announced—yeas 77, nays 19, as follows:

[No. 316 Leg.]

YEAS—77

Abourezk	Clark	Javits
Aiken	Cranston	Johnston
Baker	Dole	Kennedy
Bartlett	Domenici	Magnuson
Bayh	Dominick	Mansfield
Beall	Eagleton	Mathias
Bellmon	Fong	McGee
Bennett	Fulbright	McGovern
Bentsen	Gravel	McIntyre
Bible	Griffin	Metcalf
Biden	Hart	Metzenbaum
Brock	Hartke	Mondale
Brooke	Hatfield	Montoya
Burdick	Hathaway	Moss
Byrd, Robert C.	Hollings	Muskie
Cannon	Huddleston	Nelson
Case	Hughes	Nunn
Chiles	Humphrey	Packwood
Church	Jackson	Pastore
Pearson	Schweiker	Taft
Pell	Scott, Hugh	Talmadge
Percy	Sparkman	Tunney
Proxmire	Stafford	Weicker
Randolph	Stevens	Williams
Ribicoff	Stevenson	Young
Roth	Symington	

NAYS—19

Allen	Ervin	McClellan
Buckley	Fannin	McClure
Byrd,	Goldwater	Scott,
Harry F., Jr.	Gurney	William L.
Cotton	Hansen	Stennis
Curtis	Helms	Thurmond
Eastland	Hruska	Tower

NOT VOTING—4

Cook	Inouye	Long
Haskell		

So the motion to concur in the House amendment to the Senate amendment was agreed to.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. NELSON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. JAVITS. Mr. President, I have a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. JAVITS. Is this now the final step to send the measure to the President?

The PRESIDING OFFICER. The Senator is correct.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Hackney, one of its reading clerks, announced that the Speaker has affixed his signature to the following enrolled bills:

S. 3679. An act to provide temporary emergency livestock financing through the establishment of a guaranteed loan program; and

H.R. 9440. An act to provide for access to all duly licensed clinical psychologists and optometrists without prior referral in the Federal employee health benefits program.

The above bills were subsequently signed by the President pro tempore.

ENROLLED BILL SIGNED

The PRESIDENT pro tempore announced that on today, July 18, 1974, he signed the following enrolled bill, which had previously been signed by the Speaker of the House of Representatives:

H.R. 11295. An act to amend the Anadromous Fish Conservation Act in order to extend the authorization for appropriations to carry out such act, and for other purposes.

DEPARTMENT OF AGRICULTURE-ENVIRONMENTAL AND CONSUMER PROTECTION APPROPRIATIONS, 1975

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of H.R. 15472 which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 15472) making appropriations for agriculture-environmental and consumer protection programs for the fiscal year ending June 30, 1975, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Appropriations with amendments.

The PRESIDING OFFICER. Will the Senate suspend until we have order?

Mr. STENNIS. Mr. President, may we have order? We cannot hear.

PROGRAM

Mr. HUGH SCOTT. Mr. President, I ask unanimous consent that I may proceed for 3 minutes notwithstanding any previous order?

The PRESIDING OFFICER. Will the Senator suspend until we have order.

Mr. STENNIS. May we have order, Mr. President. We cannot hear.

The PRESIDING OFFICER. The Senator may proceed.

Mr. HUGH SCOTT. Mr. President, I rise to ask the distinguished majority leader as to what is the order of business for today and hopefully the order of business for tomorrow and the order of business until Monday.

Mr. MANSFIELD. Mr. President, with the permission of the distinguished Republican leader, I will yield to the deputy majority leader so that he can give the Senate the benefit of some agreements which he hopes will be accepted by the Senate as a whole.

Mr. ROBERT C. BYRD. Mr. President, may we have order in the Senate.

The PRESIDING OFFICER. Senators are requested to take their seats or take their conversations to the cloakroom. The Senator may proceed.

Mr. ROBERT C. BYRD. Mr. President, the appropriations bill (H.R. 15472) is presently before the Senate, and under the plan as outlined by the leadership on yesterday and in the whip notice of today the Senate would proceed with consideration of the appropriations bill during this afternoon. Obviously it cannot be finished this afternoon and it would lap over until tomorrow. I am advised by various Senators that we probably would not finish it tomorrow and it would still be around here on Monday. Therefore, after consulting with the various Senators, the leadership is prepared to make the following unanimous-consent request: That on Monday the Senate convene at the hour of 10 o'clock a.m.

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

Mr. ROBERT C. BYRD. That immediately following morning business on Monday the Senate resume consideration of the appropriation bill—before the Senate at the moment I am speaking, that the Senate resume consideration of the appropriation bill with a time limitation thereon of 2 hours, to be equally divided between Mr. McGEE and Mr. FONG; that there be a time limitation on an amendment by Mr. HRUSKA of 2 hours; that there be a time limitation on an amendment by Mr. CASE of 1 hour; a time limitation on an amendment of Mr. NELSON of 1 hour; a time limitation on any other amendment of 30 minutes; a time limitation on any debatable motion or appeal of 20 minutes, with the agreement to be in the usual form with respect to the division and control of time; provided further, that no vote occur before the hour of 3:30 p.m. on Monday.

Ordered further, that the vote on final passage of the appropriation bill occur at no later than 5 o'clock p.m. on Monday.

Mr. GRIFFIN. Mr. President, reserving the right to object, did the majority whip refer to a possible amendment by Senator CASE?

Mr. ROBERT C. BYRD. Yes; with 1 hour.

Mr. HRUSKA. Reserving the right to object.

Mr. NELSON. Did the Senator say that no vote would occur prior to 3:30?

Mr. ROBERT C. BYRD. The Senator is correct.

Mr. NELSON. That all of these amendments may then be debated prior to 3:30?

Mr. ROBERT C. BYRD. The Senator is correct.

The PRESIDING OFFICER. The Presiding Officer in his capacity as a Senator from the State of North Carolina suggests the absence of a quorum.

Mr. ROBERT C. BYRD. I hope the Chair will not do that at the moment; the agreement will not be approved until the Senator now presiding has his opportunity to object.

Mr. HRUSKA. May I ask the assistant majority leader whether the opponents of an amendment may borrow on time allotted to the bill?

Mr. ROBERT C. BYRD. Yes, under the usual form.

Mr. HRUSKA. I thank the Senator.

Mr. ROBERT C. BYRD. In accordance with the usual form.

Mr. CRANSTON. When will the Consumer Protection Agency be again considered?

The PRESIDING OFFICER. Does the Senator wish rule XII to be waived?

Mr. ROBERT C. BYRD. Yes, paragraph 3 thereof.

Mr. CRANSTON. When will the Consumer Protection Agency bill again be before the Senate?

Mr. ROBERT C. BYRD. If the agreement is approved, the Consumer Protection Agency bill will not again be before the Senate until Tuesday, because the actions on the appropriation bill will consume all of Monday, at least up until 5 o'clock.

Mr. CRANSTON. I thank the Senator.

Mr. METCALF. Mr. President, reserving the right to object, and I am as interested in the Hruska amendment as the Senator from Nebraska is, he suggested that he may need to borrow time. I think a complete explanation of this amendment would entail greater time than maybe the 1 hour permitted, perhaps another half hour being more satisfactory. Then, we would not have to borrow some time from the bill.

Would the Senator from Nebraska join me in asking for another half hour on his amendment?

Mr. HRUSKA. On my amendment?

Mr. METCALF. Yes.

Mr. HRUSKA. I would be happy to. I think it may be a more orderly process that way because there may be other demands on the time of the bill and it would assure a little bit more orderly procedure.

Mr. METCALF. If we did not need it, we could turn it back.

Would it be satisfactory to the Senator from West Virginia if we had an additional half hour on the Hruska amendment?

Mr. HRUSKA. Mr. President, if the Senator will yield, I wish to say that later this afternoon I shall make a preliminary statement on my amendment which will outline its basis and reason. I shall do so in a more complete fashion tomorrow, so that would alleviate the demands on the time allotted to this matter, and then yield back.

Mr. ROBERT C. BYRD. Mr. President, I believe the Senator from New York reserved the right to object.

Mr. JAVITS. No. I was going to ask the same question the Senator from California (Mr. CRANSTON) asked about the CPA. That question has been answered.

Mr. HUGH SCOTT. Mr. President, may we have a ruling on the unanimous-consent request?

The PRESIDING OFFICER. Is there objection to the unanimous-consent request? Without objection, it is so ordered.

ORDER OF BUSINESS FOR TUESDAY, JULY 23, 1974

Mr. ROBERT C. BYRD. Mr. President, if the distinguished majority leader wishes me to proceed, I ask unanimous consent that on Tuesday next, at the conclusion of routine morning business the Senate resume consideration of S. 3164, the Real Estate Settlement Procedures Act, and that the amendment by the Senator from Wisconsin (Mr. PROXMIRE) be the pending question before the Senate at that time, with a time limitation of 2 hours, in accordance with the usual form, and that upon the disposition of the Proxmire amendment the Senate resume consideration of the unfinished business, the consumer protection bill.

The PRESIDING OFFICER. Is there objection?

Mr. GRIFFIN. Mr. President, reserving the right to object, do I understand, and I ask this only for the RECORD, that the agreement is merely on the Proxmire amendment and that there is no other agreement with respect to the bill?

Mr. ROBERT C. BYRD. The Senator is correct. I was unable to get an agreement on the bill. I took half a loaf, or as the saying goes, a bird in the hand rather than two in the bush.

Mr. GRIFFIN. I express the hope that, there being a unanimous-consent agreement to vote on the Proxmire amendment, we would be able to get to vote on the bill sometime thereafter.

Mr. ROBERT C. BYRD. The leadership on this side of the aisle agrees with the assistant Republican leader.

ORDER FOR ADJOURNMENT UNTIL 10 A.M. MONDAY, JULY 22, 1974

Mr. ROBERT C. BYRD. Mr. President, in view of the agreements reached, I ask

unanimous consent that when the Senate completes its business today it stand in adjournment until 10 o'clock a.m. on Monday.

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

ORDER FOR RECOGNITION OF SENATOR STENNIS ON MONDAY, JULY 22, 1974

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Monday, after the two leaders or their designees are recognized under the standing order, the Senator from Mississippi (Mr. STENNIS) be recognized for not to exceed 15 minutes, prior to the transaction of routine morning business.

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

ASSISTANCE AND SERVICES FOR PRESIDENT AND VICE PRESIDENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed now to the consideration of S. 3647, and that the unfinished business be temporarily laid aside.

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

The bill will be stated by title.

The bill was stated by title as follows:

A bill (S. 3647) 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.

The Senate proceeded to consider the bill which had been reported from the Committee on Post Office and Civil Service with amendments on page 1, at the end of line 8, strike out "administrative and staff personnel" and insert in lieu thereof "employees".

On page 2, line 1, after "Executive Residence" insert "at the White House".

On page 2, in line 3, after the word "competitive" strike out "service, and to fix the pay of such personnel, without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5 relating to classification and General Schedule pay rates. Such personnel" and insert in lieu thereof the word "service".

On page 2, at the beginning of line 7 insert the words "Those employees".

On page 2, at the end of line 10 after the words "pay of" insert the words "not more than".

On page 2, in line 12 after "(1)" strike out the words "not more than fifteen of such personnel at respective rates not more than" and insert in lieu thereof "fifteen employees at rates not to exceed".

On page 2, beginning at line 17 strike out the following language:

"(2) not more than twenty-five of such personnel at respective rates not more than the rate of basic pay then currently in effect for level III of the Executive Schedule of section 5314 of title 5; and

"(3) such other personnel as he considers necessary at respective rates not more than the maximum rate of basic pay then currently paid under the General Schedule of section 5332 of title 5.

and insert in lieu thereof the following new language:

"(2) twenty-five employees at rates not to exceed the rate of basic pay then currently in effect for level III of the Executive Schedule of section 5314 of title 5; and

"(3) thirty-five employees at rates not to exceed the rate of basic pay then currently paid for GS–18 of the General Schedule of section 5332 of title 5, without regard to chapter 51 and subchapter III of chapter 53 of such title.

On page 3, at the end of line 10, after the words "Executive Residence" insert the words "at the White House".

On page 3, in line 19, after the word "services" strike out the words "as he considers necessary".

On page 3, in line 21, after the word "Residence" insert the words "at the White House".

On page 4, in line 6, after "(f)" strike out the words "There are authorized to be appropriated each fiscal year such sums as may be necessary" and insert in lieu thereof the words "In order".

On page 4, at the end of line 11, after the word "responsibilities," strike out "including the use of such funds to—" and insert in lieu thereof "the Vice President is authorized to—"

On page 4, in line 22, after the word "service," strike out "and fix the pay of, without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5 relating to classification and General Schedule pay rates—" and insert in lieu thereof "and fix the pay of not more than—".

On page 5, in line 1 after the words "at a rate" strike out "not more than" and insert in lieu thereof "not to exceed".

On page 5, beginning at line 5, strike out the following language:

"(B) not more than six employees at respective rates not more than the rate of basic pay then currently in effect for level III of the Executive Schedule of section 5314 of title 5; and

(C) such other personnel as the Vice President considers necessary at rates not more than the basic pay then currently paid under the General Schedule of section 5332 of title 5."

and insert in lieu thereof the following new language:

"(B) six employees at rates not to exceed the rate of basic pay then in effect for level III of the Executive Schedule of section 5314 of title 5; and

"(C) seven employees at rates not to exceed the rate of basic pay then currently paid for GS–18 of the General Schedule of section 5332 of title 5, without regard to chapter 51 and subchapter III of chapter 53 of such title."

On page 6, beginning at line 3, strike out the following language:

§ 106. Assistance to President in emergencies involving the national interest, security, or defense

"There are authorized to be appropriated to the President each fiscal year such sums as may be necessary to enable the President, in his discretion, without regard to any provision of law regulating employment and pay of persons in the service of the Federal Government or regulating expenditures of Federal Government funds, to respond to and deal with emergencies involving the national interest, security, or defense which may arise within or outside the United States of America."

and insert in lieu thereof the following new language:

"§ 106. Unanticipated personnel needs

"There are authorized to be appropriated to the President not to exceed $1,000,000 each fiscal year to enable the President, in his discretion and without regard to any provision of law regulating employment and pay of persons of the Government or regulating expenditures of Government funds, to appoint and pay employees to meet unanticipated personnel needs and to pay administrative expenses incurred with respect thereto."

On page 7, after line 3, strike out "'106. Assistance to President in emergencies involving the national interest, security, or defense.'." and insert in lieu thereof "'106. Unanticipated personnel needs.'."

On page 7, beginning at line 8, insert the following new language:

SEC. 4. (a) Section 102 of title 3, United States Code, is amended by striking out "Executive Mansion" and inserting in lieu thereof "Executive Residence at the White House".

(b)(1) Section 109 of such title 3 is amended—

(A) by striking out the section caption "Executive Mansion" and inserting in lieu thereof "Executive Residence at the White House"; and

(B) by striking out of the text "Executive Mansion" wherever it appears and inserting in lieu thereof "Executive Residence at the White House" each time.

(2) Item 109 in the table of sections at the beginning of chapter 2 of such title 3 is amended by striking out "Executive Mansion" and inserting in lieu thereof "Executive Residence at the White House".

(c)(1) Section 110 of such title 3 is amended—

(A) by inserting in the section caption, immediately before "White House", the following: "Executive Residence at the";

(B) by inserting in the first sentence immediately after "President's", the following: "Executive Residence at the White"; and

(C) by inserting immediately before "White House" wherever it appears "Executive Residence at the" each time.

(2) Item 110 in the table of sections at the beginning of chapter 2 of such title 3 is amended by inserting, immediately before "White House", the following: "Executive Residence at the".

SEC. 5. (a) Chapter 2 of title 3, United States Code, is amended by adding at the end thereof the following new section:

"§ 112. Statement of expenditures for employees

"(a) The President shall transmit to each House of the Congress reports with respect to expenditures for employees performing duties in the White House Office and the Executive Residence at the White House. Each such report shall be transmitted not later than sixty days after the end of each fiscal year and shall contain a detailed statement of such expenditures during the most recent complete fiscal year.

"(b) Each report required under subsection (a) shall contain (1) the name of every employee in the White House Office and the Executive Residence at the White House, (2) the amount of appropriated moneys paid to each such employee, (3) a general title and general job description for each such employee, (4) the amounts of any reimbursements made to each department, agency, or establishment for employees detailed to the White House Office under section 107 of this title, and (5) the name and general duties of the employee so detailed and the department, agency, or establishment from which the employee was detailed."

(b) The table of sections for chapter 2

of such title 3 is amended by adding at the end thereof the following new item:

"112. Statements of expenditures for employees.".

(c) The amendments made by the provisions of this section shall apply with respect to fiscal years beginning after June 30, 1974.

SEC. 6. Effective July 1, 1978—

(1) sections 105, 106, and 107 of title 3, United States Code, are repealed; and

(2) items 105, 106, and 107 in the table of sections of chapter 2 such title 3 are repealed.

Mr. McGEE. Mr. President, I ask unanimous consent that the committee amendments be considered en bloc.

The PRESIDING OFFICER. Without objection, the committee amendments are considered and agreed to en bloc.

Mr. TOWER. Mr. President, will the Senator yield to me for 30 seconds?

Mr. ROBERT C. BYRD. I yield.

Mr. TOWER. Mr. President, I ask unanimous consent that during the consideration of S. 3647 and all amendments thereto Pat Watkins and Linda Russell of my staff be permitted to have the privilege of the floor.

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

ORDER OF BUSINESS FOR MONDAY, JULY 22, 1974

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Monday the unfinished business be temporarily laid aside and remain in a temporarily laid aside status until the disposition of the agriculture appropriation bill, or the close of business that day, whichever is earlier.

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

Mr. HUGH SCOTT. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. HUGH SCOTT. Mr. President, I understand, then, as to Friday, since we have had no specific statement, that the order for Friday is "everybody out of the pool." Is that correct?

Mr. ROBERT C. BYRD. Mr. President, the distinguished majority leader will respond to the distinguished Senator from Pennsylvania.

Mr. MANSFIELD. Mr. President, the answer is in the affirmative. In other words, no session tomorrow.

Mr. HUGH SCOTT. I thank the distinguished majority leader.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate is not in order. The Senator is entitled to be heard.

The Senator may proceed.

CONSIDERATION OF CERTAIN MEASURES ON THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent, without the time being charged against the pending business, that the Senate proceed to the consideration of four following measures, all of which have been cleared on both sides of the aisle: Calendar No. 972, No. 973, No. 976, and No. 977.

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

OVERSEAS CITIZENS VOTING RIGHTS ACT OF 1974

Mr. HUGH SCOTT. Mr. President, I would like to point out that Calendar No. 976, extends and guarantees the right to American citizens abroad to vote in Federal elections. This has now been safeguarded by the action of individual members of the Committee on Rules and Administration in carefully checking certain provisions of the bill which were not satisfactory to them in their original form.

Now, all that is necessary for anyone seeking to vote who is an American citizen and is abroad, is to produce his or her passport or an acceptable Card of Identity and Registration to prevent duplicate voting by those who may have only a transitory or evanescent claim to American citizenship.

I think we have covered those provisions as well as we can so now it will be possible for those American citizens who are traveling in some other part of the world to take part in our elections.

Many of us who travel have been confronted by urgent calls to us by those of our fellow citizens who have not been in a position to vote, and I think we have done an act of justice, now that we have protected ourselves against possible fraud in the exercise of the franchise.

ROBERT J. BEAS

The bill (H.R. 3544) for the relief of Robert J. Beas was considered, ordered to a third reading, read the third time, and passed.

EMMETT A. AND AGNES J. RATHBUN

The bill (H.R. 7207) for the relief of Emmett A. and Agnes J. Rathbun was considered, ordered to a third reading, read the third time, and passed.

OVERSEAS CITIZENS VOTING RIGHTS ACT OF 1974

The Senate proceeded to consider the bill (S. 2102) to guarantee the constitutional right to vote and to provide uniform procedures for absentee voting in Federal elections in the case of citizens who are residing or domiciled outside the United States, which had been reported from the Committee on Rules and Administration with amendments, on page 1, in line 4, strike out "1973" and insert in lieu thereof "1974".

On page 3, at the end of line 22, strike out "States, the District of Columbia, and the Commonwealth of Puerto Rico;" and insert in lieu thereof "States and the District of Columbia;".

On page 4, at the end of line 1, strike out "Rico" and insert in lieu thereof "Rico, Guam, and the Virgin Islands".

On page 4, at the end of line 3, strike out "Guam, the Virgin Islands,".

On page 4, in line 9, after "United", strike out "States." and insert in lieu thereof "States, and who has a valid Passport or Card of Identity and Registration issued under the authority of the Secretary of State."

On page 5, at the end of line 5, strike out "and".

On page 5, in line 8, after "United", strike out "States." and insert in lieu thereof "States, and

(5) has a valid Passport or Card of Identity and Registration issued under the authority of the Secretary of State."

On page 7, in the fourth line of subparagraph (3) following line 5, strike out "(defined not to include the Territories and Possessions of the United States).

On page 8, between subparagraphs (10) and (1)), insert:

"Passport or Card of Identity and Registration Number----------

"Expiration Date----------"

On page 11, beginning with line 12, insert:

AUTHORIZATION OF APPROPRIATIONS

SEC. 9. (a) There are authorized to be appropriated to the Administrator of General Services such sums as are necessary to enable him to carry out his duties under section 5(d).

(b) Section 2401(c) of title 39, United States Code (relating to appropriations for the Postal Service), is amended—

(1) by inserting after "title" a comma and the following: "the Overseas Citizens Voting Rights Act of 1974,"; and

(2) by striking out "Act." at the end and inserting in lieu thereof "Acts.".

On page 12, in line 2, strike out "9" and insert in lieu thereof "10".

On page 12, in line 4, strike out "1974" and insert in lieu thereof "1975" so as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Overseas Citizens Voting Rights Act of 1974".

CONGRESSIONAL FINDINGS AND DECLARATIONS

SEC. 2. (a) The Congress hereby finds that in the case of United States citizens domiciled or otherwise residing outside the United States, the imposition and application of a State or local residency or domicile requirement as a precondition to voting in Federal elections and the lack of sufficient opportunities for absentee registration and balloting in such elections—

(1) denies or abridges the inherent constitutional right of citizens to vote in Federal elections;

(2) denies or abridges the inherent constitutional right of citizens to enjoy their free movement to and from the United States;

(3) denies or abridges the privileges and immunities guaranteed under the Constitution to citizens of the United States and to the citizens of each State;

(4) in some instances has the impermissible purpose or effect of denying citizens the right to vote in Federal elections because of the method in which they may vote;

(5) has the effect of denying to citizens the equality of civil rights and due process and equal protection of the laws that are guaranteed to them under the fourteenth amendment to the Constitution; and

(6) does not bear a reasonable relationship to any compelling State interest in the conduct of Federal elections.

(b) Upon the basis of these findings, Congress declares that in order to secure, protect, and enforce the constitutional rights of citizens residing overseas and to enable such citizens to better obtain the enjoyment of such rights, it is necessary—

(1) to abolish completely for citizens residing overseas the domicile and residence requirements as preconditions to voting in Federal elections, and

(2) to establish nationwide uniform standards relating to absentee registration and absentee balloting by such citizens in Federal elections.

DEFINITIONS

SEC. 3. For the purposes of this Act, the term—

(1) "Federal election" means any general, special, or primary election held solely or in part for the purpose of selecting, nominating, or electing any candidate for the office of President, Vice President, Presidential elector, Member of the United States Senate, Member of the United States House of Representatives, Delegate from the District of Columbia, or Resident Commissioner of the Commonwealth of Puerto Rico;

(2) "State" means each of the several States and the District of Columbia;

(3) "United States" includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, and the Virgin Islands, but does not include American Samoa, the Canal Zone, the Trust Territory of the Pacific Islands, or any other territory or possession of the United States; and

(4) "citizen residing overseas" means a citizen of the United States who is domiciled, or otherwise residing outside the United States, and who has a valid Passport or Card of Identity and Registration issued under the authority of the Secretary of State.

RIGHTS OF CITIZENS RESIDING OVERSEAS TO VOTE IN FEDERAL ELECTIONS

SEC. 4. (a) No citizen residing overseas shall be denied the right to register for, and to vote by an absentee ballot in any State or election district in any Federal election solely because at the time of such election he is not domiciled or otherwise residing in such State or district and does not have a place of abode or other address in such State or district if—

(1) he last voted or last registered to vote in such State or district, or if he did not so register or vote, was last domiciled in, such State or district prior to his departure from the United States;

(2) he has complied with the requirements concerning the casting of absentee ballots applicable in such State or district (other than any requirement which is inconsistent with this Act); and

(3) he is qualified to vote in such State or district but for his failure to maintain residence, domicile, or place of abode in such State or district·

(4) has not registered to vote and is not voting in any other State or election district or territory or possession of the United States; and

(5) has a valid Passport or Card of Identity and Registration issued under the authority of the Secretary of State.

ABSENTEE BALLOTS FOR FEDERAL ELECTIONS

SEC. 5. (a) (1) Each State shall provide by law for the registration or other means of qualification of all citizens residing overseas and entitled to vote in a Federal election in such State pursuant to section 4(a) who apply, not later than thirty days immediately prior to any such election, to vote in such election.

(2) Each State shall provide by law for the casting of absentee ballots for Federal elections by all citizens residing overseas who are entitled to vote in such State pursuant to section 4(a), and if required by State law have registered or otherwise qualified to vote under section 5(a)(1), and who have submitted properly completed applications for such ballots not later than seven days immediately prior to such election and have returned such ballots to the appropriate election official of such State not later than the time of closing of the polls in such State on the day of such election. In the case of any such properly completed application for an absentee ballot received by a State or election district, the appropriate election official of such State or district shall as promptly as possible in any event, no later than (i) seven days after receipt of such a properly completed application, or (ii) five days after the date the absentee ballots for such election have become available to such official, whichever date is later, mail the following by airmail to such citizen:

(A) an absentee ballot,

(B) instructions concerning voting procedures, and

(C) an airmail envelope for the mailing of such ballot free of United States postage.

(b)(1) In the case of a citizen residing overseas, a State or election district may accept as an application for an absentee ballot to vote in a Federal election (and as an application for registration to vote in such election, if registration is required by such State or district) a duly executed overseas citizen Federal election postcard in the form prescribed by paragraph (2).

(2) The form of the overseas citizen Federal election postcard referred to in paragraph (1) shall be as follows:

(A) The card shall be nine and one-half inches by four and one-eighth inches in size.

(B) Upon one side, perpendicular to the long dimension of the card there shall be printed in black type the following:

FILL OUT BOTH SIDES OF CARD

POST CARD APPLICATION FOR ABSENTEE BALLOT FOR FEDERAL ELECTIONS

State or Commonwealth of (Fill in name of State or Commonwealth).

(1) I hereby request an absentee ballot to vote in the coming election: (Presidential), (General), (Primary)*, (Congressional), (Special), Election.

(Strike out inapplicable words).

(2) *If a ballot is requested for a primary election, print your political party affiliation or preference in this box: (If primary election is secret in your State, do not answer).

(3) I am a citizen of the United States, and am qualified to register and vote in the above State in Presidential and Congressional elections, even though I am presently residing outside the above State and the United States and such State may not be my current domicile, and—

a. I last voted or was registered to vote in the above State.

b. The above State was my last domicile even though such State may not be my current domicile.

(4) I was born on ——.

(5) Until (Month) (Year), my home (not military) residence in the above State was ——— in the county or parish of ———.

The voting precinct or election district for this residence is ———.

(6) Remarks: ———.

(7) Mail by ballot to the following address: ———.

(8) I am NOT requesting a ballot from any other State, Territory or Possession of the United States, and am not voting in any other manner in this election, except by absentee process, and have not voted and do not intend to vote in this election at any other address.

(9) (Signature of person requesting ballot).

(10) (Full name, typed or printed)———.

Passport or Card of Identity and Registration Number———.

Expiration date ———.

(11) Subscribed and sworn to before me on (Day, month, and year); (Signature of official administering oath); (Typed or printed name of official administering oath); (Title or rank, service number (if any), and organization of administering official).

INSTRUCTIONS

A. Type or print all entries except signatures. Fill out both sides of card.

B. Address card to proper State official.

C. Mail card as soon as your State will accept your application.

D. No postage is required for the card if deposited with a U.S. Embassy, consulate, legation or other office of a U.S. Government agency, either within or outside the United States.

E. This card is an application to vote only in Federal elections. If you wish to request a ballot for State and local elections, as well as Federal elections, and are qualified to do so in your State, you can use the Standard Federal Post Card Application or other form accepted by your State for this purpose.

(C) Upon the other side of the card there shall be printed in red and blue type the following:

FILL OUT BOTH SIDES OF THE CARD

FREE of U.S. Postage Including Air Mail	Official Mailing Address

OFFICIAL ELECTION BALLOTING MATERIAL—VIA AIR MAIL

To: (Title of Election Official); (County or Township); (City or Town, State).

(c) Overseas citizen Federal election post cards and the absentee ballots, envelopes, and voting instructions provided pursuant to this Act and transmitted to or from citizens residing overseas, whether individually or in bulk, shall be free of postage, including airmail postage, in the United States mail.

(d) The Administrator of General Services shall cause overseas citizen Federal election post cards to be printed and distributed to carry out the purposes of this Act, and he may enter into agreements with the Postmaster General, with heads of appropriate departments and agencies of the Federal Government, and with State and local officials for the distribution of such cards.

(e) Ballots executed outside the United States by citizens residing overseas shall be returned by priority airmail wherever practicable, and such mail may be segregated from other forms of mail and placed in special bags marked with special tags printed and distributed by the Postmaster General for this purpose.

ENFORCEMENT

SEC. 6. (a) Whenever the Attorney General has reason to believe that a State or political subdivision undertakes to deny the right to register vote in any election in violation of section 4 or fails to take any action required by section 5, he may institute for the United States, or in the name of the United States, an action in a district court of the United States, in accordance with sections 1391 through 1393 of title 28, United States Code, for a restraining order, a preliminary or permanent injunction, or such other order as he deems appropriate.

(b) Whoever shall deprive or attempt to deprive any person of any right secured by this Act shall be fined not more than $5,000, or imprisoned not more than five years, or both.

(c) Whoever knowingly or willfully gives false information as to his name, address, or period of residence in the voting district for the purpose of establishing his eligibility to register or vote, or conspires with another individual for the purpose of encouraging

his false registration to vote or illegal voting, or pays or offers to pay or accepts payment either for registration to vote or for voting shall be fined not more than $10,000, or imprisoned not more than five years, or both.

SEVERABILITY

SEC. 7. If any provision of this Act, or the application thereof to any person or circumstance, is held invalid, the validity of the remainder of the Act, and the application of such provisions to other persons or circumstances, shall not be affected.

EFFECT ON CERTAIN OTHER LAWS

SEC. 8. (a) Nothing in this Act shall—

(1) be deemed to require registration in any State or election district in which registration is not required as a precondition to voting in any Federal election, or

(2) prevent any State or election district from adopting or following any voting practice which is less restrictive than the practices prescribed by this Act.

(b) The exercise of any right to register or vote by any citizen residing overseas shall not affect the determination of his place of residence or domicile (as distinguished from his place of voting) for purposes of any tax imposed under Federal, State, or local law.

AUTHORIZATION OF APPROPRIATIONS

SEC. 9. (a) There are authorized to be appropriated to the Administrator of General Services such sums as are necessary to enable him to carry out his duties under section 5(d).

(b) Section 2401(c) of title 39, United States Code (relating to appropriations for the Postal Service), is amended—

(1) by inserting after "title" a comma and the following: "the Overseas Citizens Voting Rights Act of 1974,"; and

(2) by striking out "Act." at the end and inserting in lieu thereof "Acts.".

EFFECTIVE DATE

SEC. 10. The provisions of this Act shall take effect with respect to any Federal election held on or after January 1, 1975.

Mr. PELL. Mr. President, as chairman of the Subcommittee on Privileges and Elections, I am indeed pleased by the action taken by the Senate today in approving S. 2102, to guarantee the constitutional right to vote in Federal elections for citizens of our Nation residing or domiciled outside the United States.

This legislation removes the stigma of second-class citizenship from these citizens. It makes them first-class citizens having an appropriate voice in the conduct of their Government.

Last September I conducted comprehensive hearings on this legislation. I have been involved in its development during the past 5 years.

A significant forerunner was the Federal Votings Rights Act Amendments of 1970, which provided an incentive for some States to permit the enfranchisement of civilian citizens temporarily living away from their regular homes and working or studying abroad.

In this respect, let me commend especially the work of Senator Goldwater who joined with me in urging at that time a broad interpretation of the 1970 legislation. While a number of States favored broader interpretations of this act, others—23 in total—did not move in this direction. This created confusion and, in my judgment, unnecessary hardships on the citizens involved. The need for today's legislation became increasingly evident.

Mr. President, this legislation affects approximately 750,000 citizens of our country.

During the hearings I pointed out,

Hundreds of thousands of citizens whose vocations require them to live in foreign countries are denied the right to participate in the elective process because there are no absentee registration and voting procedures in the States where they formerly resided, or because they no longer can claim residence or domicile in such States.

I went on to say that,

Most citizens cannot afford to maintain homes in two or more places, and therefore, lose a physical residence in the United States when they travel abroad for their employers, or as missionaries, or for any other purpose. But they are all citizens. They are interested in what goes on at home. They want to express their opinions, and most urgently, they want to vote—at least in Federal elections.

Essentially, this legislation makes clear that citizens, wherever situated, have an inherent constitutional right to vote, and that such a right should not be denied simply because those citizens cannot claim a residence in any State. The central provision of this legislation permits citizens to register and vote in that State where they last resided, or were domiciled, or where they were last registered.

Mr. President, I wish, in particular, to extend my commendations to Senator MATHIAS, who introduced this legislation in 93d Congress. He and I worked closely together on very similar legislative proposals. I was happy to report his bill favorably from the subcommittee.

Let me also express my high regard for Senator CANNON, chairman of the Rules Committee, for his initiatives in reporting this bill to the Senate.

The amendments were agreed to.

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

SALE OF CERTAIN RIGHTS IN THE STATE OF FLORIDA

The bill (H.R. 377) to authorize the Secretary of the Interior to sell certain rights in the State of Florida, was considered, ordered to a third reading, read the third time, and passed.

ASSISTANCE AND SERVICES FOR PRESIDENT AND VICE PRESIDENT

The Senate continued with the consideration of the bill (S. 3647) 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.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that no time be charged at this point against that bill.

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

Mr. ROBERT C. BYRD. This would be a good time at this point for someone to inquire if yea and nay votes are expected on any amendments or final passage thereon.

Mr. HATHAWAY. Mr. President, if the Senator from West Virginia will yield, I am in the process of offering an amendment drafted by the Senator from Wisconsin (Mr. PROXMIRE) with which I am in agreement. I do not know at this time whether to ask for a rollcall vote. It may be the managers of the bill may want a rollcall vote on that amendment.

I do not know how much time is needed by others before the amendment is offered in the next half hour.

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

Mr. ROBERT C. BYRD. I yield.

Mr. McGEE. Perhaps I can shed a light on that point. It will not take a great deal of time to lay the bill before the Senate, present the committee action, and the Senator from Hawaii (Mr. FONG) and I do not anticipate a protracted period of time on that.

Therefore, it will not be very long before the amendment is eligible. If we knew the full content of the amendment, we might dispose of it sooner.

Mr. HATHAWAY. I would be glad to discuss the amendment with the Senator, perhaps in the next 5 or 10 minutes. It would only take 15 minutes at the most.

Mr. GRIFFIN. Mr. President, I should raise something I just learned, and that is that the Senator from Connecticut (Mr. WEICKER) may have an amendment and he may ask for the yeas and nays. I hope that is not the case.

Mr. MANSFIELD. Mr. President, I ask for the yeas and nays on the Hathaway-Proxmire amendment.

The PRESIDING OFFICER. Does the Senator ask that it be in order to ask for the yeas and nays on the amendment?

Mr. MANSFIELD. Mr. President, I ask unanimous consent that it may be in order at this time to make that request.

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

Mr. MANSFIELD. Mr. President, I make the request.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Who yields time?

Mr. McGEE. Mr. President, what is the time agreement on this measure?

The PRESIDING OFFICER. There is a 1-hour limitation on the bill, the time to be equally divided between the distinguished Senator from Wyoming and the distinguished Senator from Hawaii.

Mr. McGEE. Lest that division of time be misleading to the Members of this body, the committee unanimously reported this bill, and the minority leadership and the majority leadership agree on the terms of the bill. However, in order to protect the time of any who may want to dissent from it, the Senator from Hawaii will be in charge of delegating that time to whoever may rise to speak in opposition. I yield myself 5 to 8 minutes.

Mr. President, one of the purposes of S. 3647 is to comply with rule XXI of the House, which provides that no appropriations shall be reported by the House Appropriations Committee for expenditures not previously authorized by

law. S. 3647 provides the legislative authority for the appropriation of funds for staff support, administrative expenses, and the operation of the White House: and it provides authorization for staff support for the Vice President to enable him to provide assistance to the President in connection with the performance of the duties assigned to him. This bill does not appropriate money. This is an authorization bill for White House expenses.

The authorizations requested by the Office of Management and Budget in its proposal to the Senate have been substantially reduced in S. 3647 as reported by the committee. Whereas the request proposed authorization of an unlimited number of positions to pay scales at the pay rate for grade GS–18, the bill as reported provides authorization for a total of 35 such positions. This represents an increase of only 5 over the 30 now authorized for the White House and the Executive Residence at the White House. But it does impose a ceiling, rather than an open end, on the original request received from the Office of Management and Budget.

In the legislative proposal, an unlimited number of positions at pay scales at the rate for grade GS–18 were authorized for the Vice President. The bill as reported authorizes the Vice President to appoint seven such employees.

In total, S. 3647 authorizes 75 upper level positions, an increase of 11 over those now authorized and 10 over those as authorized in the House bill.

Specifically, S. 3647 authorizes for the White House and the Executive Residence at the White House 15 employees at the Executive level II pay scale, 25 employees at rates not to exceed the rate for Executive level III, and 35 employees at rates not to exceed the pay rate for a grade GS–18.

For the Vice President, the bill authorizes one employee at the pay scale of Executive level II, six employees at the pay scale for Executive level III, and seven employees at the grade GS–18 pay scale. The President is allowed experts and consultants at pay rates equal to the daily equivalent of those for Executive level II, and the Vice President may employ experts and consultants at the maximum rate for a grade GS–18.

The legislation as proposed would have authorized the President to secure goods and services "as he considers necessary for the maintenance, operation, improvement, and preservation of the Executive Residence at the White House." The bill as reported deletes the words "as he considers necessary," to convey the meaning and the committee's intention that the President in this instance shall be subject to the provisions of the Federal Property and Administrative Service Act of 1949.

The commitee considerably diminished the authority requested for emergencies involving the national interest, security, or defense. As requested, the bill would have authorized that there be appropriated each fiscal year "such sums as may be necessary to respond to and deal with emergencies involving the national interest, security, or defense, which may arise within or without the United States of America."

The committee considered this language very carefully, and I wish the junior Senator from Maine were in the Chamber so that I could explain the reason for the committee's action. Rather than allow such requests as may seem necessary, the committee considered this language far too broad and substituted for it a section authorizing $1 million to be appropriated each fiscal year for the purpose for which, in the past, such funds have in fact been used by the President—to pay for unanticipated personnel and administrative needs.

Further, the bill as reported requires a report from the President to the Senate and House on the expenditures he has made for employees performing duties at the White House office and the Executive Residence at the White House. The bill as reported provides that the report, to be made each fiscal year, shall contain, first, the name of every employee, second, the amount of appropriated funds paid to each such employee, third, a general title and job description of each such employee, fourth, the amount of any reimbursements made to departments and agencies for employees detailed to the White House and, fifth, the name and general duties of each such employee so detailed and the Department, agency, or establishment from which the employee was detailed.

S. 3647 also provides that the authorizations it makes are repealed as of July 1, 1978. At that time, Congress will have the opportunity to review again the President's and Vice President's personnel needs and the other authorizations of the bill in the light of conditions prevailing at that time.

Mr. President, the committee, having carefully considered this legislation, is of the opinion that the President needs and ought to have such personnel as the bill authorizes and that the Vice President is similarly in need of adequate staff suport. The committee has raised somewhat the levels at which certain of the 75 employees may be compensated. This was done in view of the fact that Executive-level salaries have not been increased since March of 1969 and that the pay scales involved are accordingly depressed when compared with those of comparable positions outside of Government, from which personnel will have to be selected in order to fill the positions. With the safeguards which it incorporates, S. 3647 constitutes a necessary housekeeping measure which I urge all Members to support.

The PRESIDING OFFICER. Who yields time?

Mr. FONG. Mr. President, I yield myself 5 minutes.

Mr. President, the purpose of S. 3647, is to provide legislative authorization for staff support, administrative expenses, maintenance, and operation for the White House Office of the President, the Executive residence at the White House, and for the executive duties and responsibilities of the Vice President.

This measure is necessary to comply with clause 2, rule XXI, of the House of Representatives as interpreted by the House Appropriations Committee.

During consideration of the Supplemental Appropriations Act of 1974, H.R. 11576, the House Report No. 93–663 accompanying that bill recommended that authorizing legislation be obtained for the funding of certain activities of the White House Office of the President and the Executive residence at the White House. This was to comply with clause 2, rule XXI, which in part provides that no appropriation shall be reported by the Appropriations Committee of the House of Representatives in any general appropriation bill for any expenditures not previously authorized by law.

As a result, H.R. 14715 was introduced in the House of Representatives and passed on June 25, 1974, I introduced a companion measure, S. 3647, in the Senate on June 13, 1974.

S. 3647 is similar to draft legislation submitted to the Senate by Director Roy Ash, Office of Management and Budget, on April 29, 1974.

Mr. President, it is very important that the Senate approve S. 3647 at this time. These appropriations include payments for the President's White House staff, the Vice President's staff, the President's Executive Office's representation, entertainment activities, and the continuation of certain commissions empaneled by the President to investigate unanticipated problems that arise from time to time.

Appropriations for these activities and payrolls are included in the Treasury-Post Office, General Government Appropriations bill. This appropriation bill is presently in markup in the Senate Appropriations Committee. To insure that the necessary funds are available in fiscal year 1975, it is essential that the Senate act favorably on this measure now.

It has long been the practice that appropriations for the President's Executive Office and White House staffing and operations were governed only by the amount of money appropriated in the appropriations bill rather than a specific authorization bill. However, as I stated earlier, the House Appropriations Committee maintains that under the new rules of the House, enactment of this authorization bill is a prerequisite to funding.

It is critical to the operations of the Executive Office of the President and his residence at the White House that this bill be approved.

It contains the authorization for his top staff, the top staff of the Vice President, and the necessary funds for the operations of the President's offices.

Because this authorization bill will be the law under which appropriations for the President's and Vice President's offices for the next 4 years will be made, the committee unanimously voted to add a few more positions than are presently being used by the Executive Office. The total number of positions authorized, however, is still less than that authorized in the original bill I introduced.

At the present time, under the provisions of section 105 and 106 of title 3, United States Code, the President is au-

thorized six administrative assistants, the Executive Secretary of the National Security Council, the Executive Secretary of the National Aeronautics and Space Council, the Executive Secretary of the Economic Opportunity Council, and eight other secretaries or immediate staff assistants in the White House Office at rates of basic pay not to exceed that of level II, Federal Executive Salary Schedule. Excluding the Executive Secretaries cited in section 105, the President is now authorized 14 assistants at a rate of pay not to executive level II.

Other than those two provisions in law, there is no other authorization for the employment of persons on the President's staff outside of the General Schedule of the U.S. Civil Service System.

Section 3101 of title 5, United States Code, contains the permanent legislation with general authorization for such employment.

So, at the present time, the President is authorized by law to appoint 14 assistants at pay rates not to exceed Executive Level II and the positions contained in section 3101.

Under the applicable appropriations bills, the President at the present time has appointed 21 assistants at pay rates not exceeding Executive Level III—$40,000—and 30 assistants at rates not exceeding that of the GS–18 General Schedule pay—$36,000.

The Vice President under appropriations bill language has appointed one assistant at a level not to exceed Executive Level II, four assistants not to exceed Executive Level III and six assistants not to exceed the level of General Schedule 18.

S. 3647 would authorize the President to appoint 15 assistants at rates not exceeding Level II—an increase of 1; 25 assistants at rates not to exceed Level III—an increase of 4; and 35 assistants not to exceed General Schedule 18—an increase of 5.

The Vice President would have the same number—one—at a rate not to exceed Executive Level II; six assistants at a rate not to exceed Executive Level III—an increase of two; and seven assistants at a level not to exceed General Schedule 18—an increase of one.

In addition both the President and the Vice President would be authorized to appoint consultants limited only by the availability of funds in the appropriations bill.

It must also be pointed out that the President can also have detailed to the Executive Office certain employees from the other executive agencies and departments.

At the present time there are 30 such employees so detailed. The White House reimburses the deploying agencies for any employee detailed over 6 months.

S. 3647 also authorizes the appropriation of funds to cover the expenditures necessary for official reception, entertainment and representation activities of the White House.

Also authorized in the bill is $100,000 for travel expenses covering the President's staff and party.

A final authorization of $1,000,000 for unanticipated personnel needs is included in the bill. These funds are used to pay for the appointment by the President of commissions and committees to investigate problems that arise from time to time that were not programed. In the past this has included the Energy Policy Office, the Federal Property Council, the U.S. Puerto Rico Ad Hoc Advisory Group, and the Special Action Office for Drug Abuse Prevention.

The committee also voted to end the authorizations in this bill in July, 1978. At that time the Congress will have another opportunity to review the staffing of the President and Vice President and vote on another authorization bill.

The committee feels that the bill it has brought out is a fair one that will not hinder the operations of the Executive Office of the President and the office of the Vice President and provide the President with the necessary funds to carry out his official duties. It was a unanimous report from the committee.

This is not a liberal authorization bill. The committee has tightened several provisions in the bill as first introduced. The committee also imposed a number of restrictions in the bill it reported out as compared with the bill as originally introduced.

Undoubtedly, the bill will be referred to a conference committee with the House. The House bill is much more restrictive than the Senate bill. For this reason I believe that the Senate bill should not be amended to be more restrictive than that reported out by the committee.

I strongly urge Senate approval of S. 3647 without further amendment.

Mr. HARRY F. BYRD, JR. Will the Senator yield for a question?

Mr. FONG. I yield.

Mr. HARRY F. BYRD, JR. As I understand it, this legislation provided for 75 upper level——

Mr. FONG. That is true.

Mr. HARRY F. BYRD, JR. Did I understand the Senator to say that is a number greater than that has been requested by the White House?

Mr. FONG. The White House has requested unlimited; we put a ceiling on it for GS–18, whereas they asked for an unlimited number.

Mr. HARRY F. BYRD, JR. Well, I see. The request then was for an unlimited number of GS–18 and the committee put a ceiling?

Mr. FONG. That is correct, of 35.

Mr. HARRY F. BYRD, JR. How many are in that category at the present time?

Mr. FONG. At the present time, there are 30 employees who are drawing GS–18 pay of $36,000, and we have increased that by 5.

Mr. HARRY F. BYRD, JR. How many are now at Executive Level III?

Mr. FONG. Executive Level III is 21. We have increased it by 4 to 25, and there are presently 14 at Level II, and we have increased it by 1.

Mr. HARRY F. BYRD, JR. What is the figure for Level II?

Mr. FONG. Level II is 14, to 15.

Mr. HARRY F. BYRD, JR. Yes, but what is the dollar figure?

Mr. FONG. $42,500.

Mr. HARRY F. BYRD, JR. And then for Level III it is how much?

Mr. FONG. $40,000.

Mr. HARRY F. BYRD, JR. So the request, then, as I understand it—what was the request for Level II?

Mr. FONG. For Level II was 15.

Mr. HARRY F. BYRD, JR. Fifteen; and the committee gave what number on that?

Mr. FONG. Gave them 15.

Mr. HARRY F. BYRD, JR. And what was the request for Level III?

Mr. FONG. For III was 25.

Mr. McGEE. Grades 3, 4, and 5 were 25 all together.

Mr. FONG. Not to exceed the pay of Level III.

Mr. HARRY F. BYRD, JR. Yes. The committee met the request for level 2 and the request for level 3?

Mr. McGEE. Yes.

Mr. FONG. And we put a ceiling on GS–18's.

Mr. HARRY F. BYRD, JR. A ceiling on 18 of 35?

Mr. FONG. Yes; and this will be reviewed every 4 years.

Mr. HARRY F. BYRD, JR. This will stand for 4 years. Is it customary to make it as long as 4 years?

Mr. FONG. Heretofore there have been no authorizations. The White House has been limited only by the appropriation bill, except for the executive level 2, which was limited to 14.

Mr. HARRY F. BYRD, JR. I thank the Senator.

The PRESIDING OFFICER. Who yields time?

Mr. McGEE. Mr. President, I suggest the absence of a quorum, the time for the quorum call to be equally divided.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HATHAWAY. 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. HATHAWAY. Mr. President, I send an amendment to the desk on behalf of myself and the Senator from Wisconsin (Mr. PROXMIRE) and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. HATHAWAY. I ask unanimous consent that further reading of the amendment be dispensed with, and that the amendment be printed in the RECORD at this point.

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

Mr. HATHAWAY'S amendment is as follows:

On page 4, lines 1 and 2, strike out "and accounted for solely on his certificate" and insert in lieu thereof a comma and the following: "except that the Comptroller General shall be furnished information requested by him relating to the expenditure of such

funds and access to all necessary books, documents, papers, and records relating to any such expenditure, in order that he may determine whether the expenditure was for payment of official reception, entertainment, and representation expenses".

On page 7, line 7, immediately before the period insert "and by deleting 'and accounted for on his certificate solely' and inserting in place thereof a comma and the following: 'except that the Comptroller General shall be furnished information requested by him relating to the expenditure of such sums and access to all necessary books, documents, papers, and records relating to any such expenditure, in order that he may determine whether the expenditure was for payment of traveling expenses of the President of the United States.' ".

The PRESIDING OFFICER. Is this the amendment of the Senator from Wisconsin on which a 1-hour time limitation was agreed upon?

Mr. HATHAWAY. No, this is not the amendment for which an hour was agreed upon. I am still holding that amendment in my hand.

The PRESIDING OFFICER. In that case, there will be a limitation of 15 minutes on each side.

Mr. HATHAWAY. This is an amendment which requires that travel and entertainment expenditures be subject to GAO audit, which I believe the managers of the bill would agree to accept. We have discussed this previously.

Mr. McGEE. The only reason it was not in the original bill is that, as discussed in the committee, the GAO already has that authority; but it makes a good point that we underscore the responsibility to exercise that authority, and the committee is prepared to accept that amendment for inclusion in the measure.

Mr. HATHAWAY. I thank the Senator from Wyoming very much.

While I have the time, I would like to ask the Senator a few questions that may obviate the necessity of my offering the other amendment, of which the Senator from Wisconsin (Mr. PROXMIRE) is also a cosponsor, in regard to the number of personnel and other matters.

I understand that the total number of employees authorized by the Senate bill would be 75, which is 10 more than what the House authorizes in the bill it has passed. I would like to ask the Senator why we are authorizing 10 more.

Mr. McGEE. That is not quite the full picture on that yet. When the House selected the figure of 65, they still left language in their bill that made open-ended the actual final number on the GS–18s. It could just as well have been 95 or 100 later on, if the President so desired.

The Senate committee, after taking additional testimony upon the receipt of the House bill, decided upon two things. The first was that we were not going to leave that open end in there, and we decided we ought to be employed, and we proposed such a ceiling on that category.

Second, we put the ceiling at 75. The reason for the 75 was that the case was well made, in the committee's judgment, that with the new programs that are beginning to emerge in Congress now, we are faced with uncertainty as to how that would tax employees' time at the White House level, in order to meet those responsibilities. Because no one can know that at this point, since the measures have not finished their course through the legislative mill, we felt it was a reasonable figure to apply the 75. That is a ceiling, not a requirement; in other words, the President could go no higher than that, but we thought that was a legitimate protection for the executive branch, in view of some of the uncertainties in the pending legislation.

I would add, for the distinguished Senator from Maine, that likewise this is only the authorization; there is no money actually appropriated here, and that in itself is an innovation, since, in the past, it has been allowed to be open-ended.

Mr. HATHAWAY. Thank you. I commend the Senator from Wyoming as well as the Senator from Hawaii and the members of the committee for making this historic move in limiting the authorization of the numbers that can be on the White House staff. I understand that previous to this bill the only limitation was with the Appropriations Committee.

In the light of possible new programs, as the Senator has stated, I would assume when the matter comes before the Appropriations Committee that if it appears that the new programs are not going to work out, and the personnel will not be needed, that the money would not be appropriated for that purpose.

Mr. McGEE. That is correct.

Mr. HATHAWAY. With regard to job classification, I understand that job classifications for all White House personnel have to be presented to Congress.

Mr. McGEE. Yes. This, again, for the first time requires the President to describe each job position, the duties, the name, the salary, and all relevant information in that regard, and furnish that information to Congress; and that, again, is an advance forward from where we have been.

Mr. HATHAWAY. I understand also that there is a $1 million fund provided for in the Senate bill, which is not provided in the House bill. Until I talked with the Senator recently, I was afraid that we were providing some million-dollar slush fund for the President that the House was not; but I understand I am not correct in that regard, and that we are really placing a limitation of $1 million on unanticipated needs for personnel, whereas, if we did not have that limitation, there would be no limitation.

Mr. McGEE. Under the legislation that was submitted to the committee from the executive branch, that would have been unlimited. It was for unanticipated expenses for personnel, and there was no ceiling on it.

We weighed that one very carefully, and we appreciated the fact that there would be unanticipated kinds of things that would require personnel, but rather than leave that open-ended, which always leaves the risk that it might be abused, we decided to put the ceiling on that.

The ceiling we put on was $1 million, but it has to be accounted for.

Mr. HATHAWAY. Every year?

Mr. McGEE. Every year.

Mr. HATHAWAY. So that, if the President decided to hire 20 new people with that million dollars, and after his accounting at the end of the year, the Appropriations Committee could say, "We are not going to appropriate money for more than 5 or 10 of them next year" and the limitation would be whatever they decided?

Mr. McGEE. That is correct.

Mr. HATHAWAY. And the House bill did not have this provision in it?

Mr. McGEE. They did not have the money ceiling at all.

Mr. HATHAWAY. So there would be no limitation?

Mr. McGEE. That is correct.

Mr. HATHAWAY. There is one other point, which I have covered in an amendment which I shall offer shortly, that concerns the personnel which the President may borrow from various agencies downtown. I refer to those which are detailed, say, from the Department of the Interior to the White House.

I understand that the Senate bill has a requirement that the reason for this borrowing will be presented to Congress, but I would like to see a limitation such as that contained in the House bill, which limits the time of service of any of these persons detailed from an agency to the White House to 1 year.

Mr. McGEE. The bill really goes farther than that, than the House bill. What the bill does is specify that anybody taken from an agency, borrowed from an agency, it must not only be specified as to what he is borrowed for, described, but the agency then has to be compensated for him from the funds available to the White House. No more of the loose flow back and forth of agency personnel at the whim of a phone call from the executive branch.

Therefore, it is considerably tightened up. Under the existing law, a man borrowed from an agency, under whatever terms, cannot be retained for more than a year without a review of that, for approval for another year. It would be acceptable to the committee, and a reinforcing factor and a good offer, if we put that on the bill as a further requirement to live up to the letter of the law.

Mr. HATHAWAY. I thank the Senator. I shall offer that amendment as soon as the one pending is voted upon. I thank the Senator very much, and yield back whatever time I have remaining on the pending amendment.

Mr. McGEE. I yield back such time as I have remaining.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. HATHAWAY. Mr. President, I send to the desk an amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

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

The PRESIDING OFFICER. Without objection, it is so ordered; and, without

objection, the amendment will be printed in the RECORD.

The amendment, ordered to be printed in the RECORD, is as follows:

On page 8, between lines 16 and 17 insert the following:

SEC. 4. Section 107 of title 3, United States Code, is amended to read as follows:

"§ 107. Detail of employees of executive departments to office of President

"At the request of the President, the head of any department, agency, or independent establishment of the executive branch of the Government shall detail, from time to time, employees of such department, agency, or establishment to serve in the White House Office. The President shall advise the Congress of the names and general duties of all such employees so detailed to the White House Office. An employee may not be so detailed for full-time duty on a continuing basis for any period of more than one year. The White House Office shall reimburse each such department, agency, or establishment, for the pay of each employee thereof so detailed for full-time duty on a continuing basis, for any period of such detail occurring after the close of the sixth month following the date on which such detail first becomes effective.".

Mr. HATHAWAY. Mr. President, I wish to ask——

The PRESIDING OFFICER. The Senator will suspend, the Chair wishes to ask the Senator from Maine if this is the amendment of the Senator from Wisconsin on which a time limit was set or is this another amendment of the Senator from Maine?

Mr. HATHAWAY. Mr. President, this is an independent amendment of my own. It is not the Proxmire amendment.

The PRESIDING OFFICER. The time is limited to 15 minutes to a side.

The Senator may proceed.

Mr. HATHAWAY. Mr. President, this is the amendment we just discussed which places a 1-year limitation on the President's borrowing power from other agencies. I presume the Senator is in agreement with the amendment and that there is no need for further discussion.

Mr. McGEE. Mr. President, the committee is prepared to accept the amendment. In one sense, it is sort of self-defeating, only in the context that a matter could be reasserted in a year's time, but it serves a constructive end.

Mr. HATHAWAY. I thank the Senator.

Mr. President, I yield back the remainder of my time.

Mr. McGEE. I yield back the remainder of my time.

The PRESIDING OFFICER. All time is yielded back. The question is on agreeing to the amendment.

Mr. FONG. Mr. President, may I have the amendment read?

The PRESIDING OFFICER. The amendment will be read.

The assistant legislative clerk read as follows:

On page 8, between lines 16 and 17 insert the following:

SEC. 4. Section 107 of title 3, United States Code, is amended to read as follows:

"§ 107. Detail of employees of executive departments to office of President

"At the request of the President, the head of any department, agency, or independent establishment of the executive branch of the Government shall detail, from time to time, employees of such department, agency, or establishment to serve in the White House Office. The President shall advise the Congress of the names and general duties of all such employees so detailed to the White House Office. An employee may not be so detailed for full-time duty on a continuing basis for any period of more than one year. The White House Office shall reimburse each such department, agency, or establishment, for the pay of each employee thereof so detailed for full-time duty on a continuing basis, for any period of such detail occurring after the close of the sixth month following the date on which such detail first becomes effective.".

The PRESIDING OFFICER. All time has been yielded back. The question recurs on the amendment.

The amendment was agreed to.

The PRESIDING OFFICER. Who yields time? The Senator from Wyoming is recognized.

Mr. McGEE. Mr. President, the Senator from Connecticut has an amendment.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. WEICKER. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The amendment was read, as follows:

On page 8, line 19, strike out "section" and insert in lieu thereof "sections".

On page 9, line 13, strike out the quotation marks.

On page 9, between lines 13 and 14 insert the following:

"§ 113. Limitation upon access of executive branch personnel to tax returns

"Notwithstanding any other provision of law or of any regulation made pursuant thereto, no return made with respect to any tax imposed by the Internal Revenue Code of 1954 shall be open for inspection by, nor shall any copy thereof be furnished to, any officer or employee in the executive branch, other than the President personally upon written request, or an officer or employee of the Department of the Treasury or the Department of Justice concerned with the filing and audit of such return, the payment, collection, or recovery of the tax with respect to which such return was made, or the prosecution of any offense arising out of that return."

On page 9, in the matter between lines 16 and 17, strike out the end quotation marks and the last period and insert in lieu thereof the following:

"113. Limitation upon access of executive branch personnel to tax returns."

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. WEICKER. Mr. President, I intend to ask for the yeas and nays on this vote.

Mr. President, I wish to spend a few minutes describing what is in this amendment. We have before us a bill which is described as a bill to clarify existing authority for employment of personnel in the White House Office and in the Executive residence at the White House, and employment of personnel by the President in emergencies involving the national security and defense, and for other purposes.

Evidence has been acquired over the past several months that indicates widespread abuses by White House personnel, which abuses specifically have related to illegal access to Internal Revenue Service material. More specifically the tax returns of various American citizens.

The law on the acquisition of such returns by White House personnel has been somewhat on the fuzzy side. It is my purpose here to legislatively prohibit anyone from acquiring such information from such returns, except as they are required by the President himself for himself.

The record is replete with the acquisition of Internal Revenue Service files by the very type of personnel that are the subject matter of this bill. On the second page of the bill the statement is made:

Those employees shall perform such official duties as the President may prescribe.

My amendment specifically sets forth that area which is out of bounds whether ordered by the President, or anyone else.

Everybody is aghast at those instances that have been revealed in the way of Internal Revenue Service information coming into White House possession. But the question is: What are we going to do about it?

Here we have a bill, relating to White House personnel. We also have before us very specific examples of how these personnel, time and time again, acquired information from the Internal Revenue Service, and how it was used in a negative or derogatory sense.

I want to make sure that whatever duties are prescribed by the President under this bill, those duties will not include the right or the authority to gain such information except by him on his written request. It is as simple as that.

Here is the opportunity to make sure an enemy or friend list taxwise does not happen again, and it is with that in mind that I propose this amendment, which though limited in scope is very clear in the end which it seeks to achieve.

I ask unanimous consent, Mr. President, that Mr. Dotchin, Mr. Baker, Mr. Mihalec and Mr. Field, of my staff be permitted access to the floor during debate on this amendment.

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

Mr. WEICKER. Mr. President, I also ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

Mr. WEICKER. Mr. President, I suggest the absence of a quorum. I ask unanimous consent that the time not be charged to either side.

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

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. 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 yield to the Senator from Hawaii.

Mr. FONG. Mr. President, I make the point of order that under the unanimous-consent agreement, this amendment is not germane.

The PRESIDING OFFICER. The point of order is not in order until the time of

the Senator from Connecticut has been used up or yielded back.

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

The PRESIDING OFFICER. On whose time?

Mr. WEICKER. The time to be charged to both sides.

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

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 yield to the Senator from Hawaii.

Mr. WEICKER. Mr. President, as I understand the ruling of the Chair, it is first in order that I should yield back the remainder of my time on this amendment. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. WEICKER. I yield back the remainder of my time.

Mr. McGEE. I yield back to the time on this side.

The PRESIDING OFFICER. All time has been yielded back.

Mr. FONG. Mr. President, I make the point of order that under the unanimous-consent agreement, this amendment is not germane.

The PRESIDING OFFICER. The Chair after reviewing the matter, sustains the point of order that the amendment is not germane.

Mr. WEICKER. Mr. President, I appeal the ruling of the Chair, and I ask for the yeas and nays.

The yeas and nays were not ordered.

Mr. McGEE. Mr. President, I suggest the absence of a quroum, 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 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. FONG. Mr. President, I ask unanimous consent that my request for a ruling on the germaneness be withdrawn and that the decision of the Chair be vitiated.

The PRESIDING OFFICER. Without objection, the action on the point of order is vitiated and the appeal is withdrawn.

The question is on the amendment.

Mr. GRIFFIN. Have the yeas and nays been ordered?

The PRESIDING OFFICER. The yeas and nays have not been ordered.

Mr. FONG. Mr. President, we are willing to accept that.

Mr. McGEE. Mr. President, we had a consultation here, with the distinguished Senator from Connecticut, and we are prepared to accept the amendment and take it to conference. I do not know what will occur in conference. We cannot make guarantees, as the Senator well knows, but we will take it to conference in good faith.

Mr. WEICKER. Mr. President, I thank the distinguished Senator from Wyoming and the distinguished Senator from Hawaii. I believe they will battle through this principle of privacy. It is not difficult or complicated. I think it should be established. I thank both Senators very much.

Mr. FONG. Mr. President, may I ask the distinguished Senator a question?

This does not debar the President or anyone in the White House from asking the Internal Revenue, if a certain person is up for appointment, whether he has any tax problems?

Mr. WEICKER. It requires the President to make that request in writing. He can then get that information, that is correct.

The PRESIDING OFFICER. All time on the amendment having been yielded back, the question is on agreeing to the amendment of the Senator from Connecticut.

The amendment was agreed to.

Mr. McGEE. Mr. President, I know of no other amendments to the bill.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. PROXMIRE. Mr. President——

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, is there a time limit on this bill?

The PRESIDING OFFICER. There is a time limit on the bill.

Mr. PROXMIRE. Have we had a third reading?

Mr. McGEE. Mr. President, we were just prepared to ask for the third reading.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. PROXMIRE. Do I have the right to suggest the absence of a quorum under the circumstances?

The PRESIDING OFFICER. Not without time being used at this point.

Mr. PROXMIRE. Mr. President, I ask unanimous consent I may suggest the absence of a quorum for a brief period without time being charged to either side.

The PRESIDING OFFICER. Is there objection? If not, it is so ordered, and the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. McGEE. Mr. President, I know of no other amendments.

Mr. FONG. We yield back the remainder of our time.

Mr. McGEE. We yield back the remainder of our time.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time.

The bill was read the third time.

Mr. FONG. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. MONDALE. Mr. President, I rise to support S. 3647, and to commend the Post Office and Civil Service Committee and its distinguished chairman (Mr. McGEE) for the outstanding job which he and the committee have done in shaping what I believe to be legislation of historic importance.

I was privileged to testify before the distinguished chairman (Mr. McGEE) and the distinguished ranking minority member (Mr. FONG) on this legislation on June 26. My comments then reflected the fact that S. 3647, as originally introduced, was a dangerous and potentially ly destructive piece of legislation. Based largely on language supplied by the Office of Management and Budget, it granted authority for key White House staff positions without limitations as to time, dollars or numbers. In my view, the bill as originally introduced would have been worse than no authorization at all, and would have been an endorsement of more of the same type of lawlessness and arrogance which has typified the White House in recent years.

Sadly, the White House staff of today bears little resemblance to the White House staff envisioned when the Executive Office of the President was created some 35 years ago.

President Roosevelt's Committee on Administrative Management, which first proposed the creation of an Executive Office of the President during the late 1930's, stated that assistants to the President "would not be assistant presidents in any sense," and "would remain in the background, issue no orders, make no decisions, emit no public statements." President Roosevelt, in the Executive order which created the EOP, followed this advice by directing that "in no event shall the administrative assistants be interposed between the President and the head of any department or agency."

This is surely a far cry from the White House staff of today. From an original staff of 6 assistants to the President under Franklin Roosevelt, the Executive Office of the President has mushroomed to a staff of over 2,000 today. And the administration has asked for over $100 million in budget authority for fiscal year 1975 to run the EOP.

This, of course, is not a sudden development. Previous administrations—and the Congress—must share the blame for the growth of a White House staff of enormous size and influence. But even in this context, I believe this administration has used the White House office staff—and particularly the key advisors to the President—to aggrandize and centralize power to a degree never before experienced in our history. As the National Academy of Public Administration noted in its recent report to the Senate Select Committee on Presidential Campaign Activities, "the principal assistants and counselors have been converted from intimate personal advisors to the President to the equivalent of assistant presidents managing the executive establishment out of the White House."

Along with the growth in the White House staff's size and arrogance has come the corresponding ability to hide behind bloated notions of executive privilege in seeking to avoid responsibility to the Congress. Only recently, the President's newly appointed economic czar, Kenneth Rush, refused to appear before the Joint Economic Committee, citing executive privilege. This is only the latest of a series of similar refusals, all of which are aimed at reducing the ability of the Congress to exercise its oversight responsibilities.

I am sure that many in this body have had the same experience as I have during the past 5 years. We worked on a piece of legislation, believing that the representatives of this administration with whom we were dealing were those who should be representing it: the Cabinet departments, whose heads are subject to Senate confirmation and general congressional oversight. We bargained in good faith with these Cabinet officers, believing that positive results could be achieved. And often, we reached agreement—or what we thought was agreement—only to be told at the last minute that the Cabinet officer with whom we were dealing was really only a front man, a PR official sent out by the White House to fend off inquisitive Congressmen.

The real decisions, we were then told, were being made in the White House, by staff members not subject to congressional scrutiny, who could claim executive privilege at will, and who did an excellent job of thwarting the will of the Cabinet officers, whose job it should be to make Government policy.

Many of the extremely important issues raised by the growth in size and arrogance of the White House staff clearly go beyond the scope of S. 3647. And yet this legislation is one important and historic part of the entire White House staff problem, for it marks the first time that much of the present key White House staff has been legislatively authorized.

Particularly because of the importance of this legislation, I am extremely pleased to note that the major problems with S. 3647 as introduced have been resolved, and many desirable features have been incorporated in the committee-reported bill.

First, the committee bill does away with the open-ended authorization for high-level White House staff personnel which was incorporated in the bill as introduced. Although the limit of 75 supergrade and Level II through V positions which it sets is in my view too high, since it expands the present staff by 10 authorized positions, the bill does incorporate the all-important concept of a legislatively mandated maximum on high-level personnel.

Hopefully, the Appropriations Committees of the House and Senate will exercise restraint in funding these positions, and will very critically examine the need for any expansion of key positions within the White House, in view of the rapid growth of these key positions in recent years.

Second, the bill as reported does away with the shockingly broad language in the original bill which would have authorized the President, without any limitation of dollar amount, to deal with "emergencies involving the national interest, security, or defense which may arise within or outside the United States of America."

The committee-reported bill has wisely eliminated this extraordinarily broad language, which in my view was inexcusable after all we have been through with Watergate. In its place, the committee has inserted a legislative authorization of up to $1 million annually, to be used by the President "to appoint and pay employees to meet unanticipated personnel needs and to pay administrative expenses incurred with respect thereto."

This language conforms with past usage of the so-called emergency fund of the President, which has been used for a variety of legitimate purposes for over 20 years. By placing a maximum of $1 million in yearly authorization, it successfully eliminates the potential threat of dangerous Presidential action which the White House language implied.

Third, the committee-reported bill placed a July 1, 1978 cutoff date for the authorization for White House personnel and the President's emergency fund envisioned by this legislation. I am particularly pleased with this provision of the bill since it will require future Presidents to come to the Congress and make their case for their own staff needs. In view of the usurpation by the White House staff of recent years of the functions of Cabinet officers and others to whom principal responsibility for executive department policymaking should be delegated, I believe that it is essential that any future President, of whatever political party, be required to come to the Congress and grant us our proper role in determining the size and shape of the White House staff.

Fourth, the committee-reported bill requires that statements of expenditures for White House office employees, including employees detailed to the White House office, be transmitted to the Congress on a regular basis. Once again, this provision was lacking in the bill as introduced, and once again, it performs an extremely valuable function by allowing the Congress to know precisely who is employed in key positions in the White House, what they are earning, and what the general range is of their responsibilities. In addition, by giving us a count on detailees in the White House, it will enable the Congress to frame legislation in the future which takes into account the real levels of staff assistance in the White House, and the necessity for placing future limits on the extent of detailing.

Mr. President, for too many years, we in the Congress let ourselves be lulled into unthinking compliance with White House wishes, whenever it came to staffing for the President. Comity between the branches of government, we were told, required that we not look at the authority for White House positions or the budget for these positions.

Yet for too long, comity has been used as an excuse by the Congress to shirk its responsibility to make the White House more responsive and accountable to the Congress.

We have the power of the purse. We have the power to authorize or not to authorize programs and positions. And unless we use these powers, comity becomes a cruel joke, slowly sapping the vitality out of our system of checks and balances.

When I testified before the Post Office and Civil Service Committee in opposition to S. 3647 as originally introduced, I stated that:

> The real question is whether we have an issue of executive usurpation and, if so, whether the role of authorizing and appropriating money to the White House and its staff can diminish this trend toward such usurpation.

I am happy to note that as a result of the action by the committee, I believe that this legislation will help us reduce the possibility of any White House, now or in the future, attempting to aggrandize power and centralize functions to the detriment of the national interest.

Mr. McGEE. Mr. President, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of H.R. 14715 and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. The clerk will state the bill by title.

The assistant legislative clerk read the bill as follows:

> A bill (H.R. 14715), to clarify existing authority for employment of White House Office and Executive Residence personnel, and for other purposes.

Mr. McGEE. Mr. President, I ask unanimous consent that the Senate vacate the yeas and nays on S. 3647 and ask for the yeas and nays on H.R. 14715.

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

The yeas and nays were ordered on H.R. 14715.

Mr. McGEE. Mr. President, I ask unanimous consent that all after the enacting clause of H.R. 14715 be stricken, and the language of S. 3647, as amended by the Senate, be substituted.

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

The bill was read the third time.

The PRESIDING OFFICER. All time has been yielded back.

The bill having been read a third time, the question is, Shall it pass? On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Mississippi (Mr. EASTLAND), the Senator from North Carolina (Mr. ERVIN), the Senator from Hawaii (Mr. INOUYE), the Senator from Louisiana (Mr. LONG), the Senator from Ohio (Mr. METZENBAUM), the Senator from Connecticut (Mr. RIBICOFF), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

I also announce that the Senator from Colorado (Mr. HASKELL) is absent because of illness in the family.

Mr. GRIFFIN. I announce that the Senator from Kentucky (Mr. COOK),

the Senator from New Hampshire (Mr. COTTON), the Senator from Oregon (Mr. PACKWOOD), and the Senator from Virginia (Mr. WILLIAM L. SCOTT) are necessarily absent.

I further announce that, if present and voting, the Senator from Kentucky (Mr. COOK) would vote "yea."

The result was announced—yeas 85, nays 3, as follows:

[No. 317 Leg.]

YEAS—85

Abourezk	Eagleton	Metcalf
Aiken	Fannin	Mondale
Allen	Fong	Montoya
Baker	Fulbright	Moss
Bartlett	Gravel	Muskie
Bayh	Griffin	Nelson
Beall	Gurney	Nunn
Bellmon	Hansen	Pastore
Bennett	Hart	Pearson
Bentsen	Hartke	Pell
Bible	Hatfield	Percy
Biden	Hathaway	Proxmire
Brock	Hollings	Randolph
Brooke	Hruska	Schweiker
Buckley	Huddleston	Scott, Hugh
Burdick	Hughes	Sparkman
Byrd, Harry F., Jr.	Humphrey	Stafford
Byrd, Robert C.	Jackson	Stevens
Cannon	Javits	Stevenson
Case	Johnston	Symington
Chiles	Kennedy	Taft
Church	Magnuson	Talmadge
Clark	Mansfield	Thurmond
Cranston	Mathias	Tower
Curtis	McClellan	Tunney
Dole	McClure	Weicker
Domenici	McGee	Williams
Dominick	McGovern	Young
	McIntyre	

NAYS—3

Goldwater	Helms	Roth

NOT VOTING—12

Cook	Inouye	Ribicoff
Cotton	Long	Scott, William L.
Eastland	Metzenbaum	Stennis
Ervin	Packwood	
Haskell		

So the bill (H.R. 14715) was passed.

The title was amended so as to read: "A bill to clarify existing authority for employment of personnel in the White House Office and in the Executive Residence at the White House, employment of personnel by the President to meet unanticipated personnel needs, and for other purposes."

Mr. McGEE. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. FONG. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. McGEE. Mr. President, I ask unanimous consent that the title of H.R. 14715 be amended to read as follows:

An act to clarify existing authority for employment in the White House and in the Executive Residence at the White House, and employment of personnel by the President to meet unanticipated personnel needs, and for other purposes.

The motion was agreed to.

Mr. McGEE. Mr. President, I move to reconsider the vote by which H.R. 14715 was passed.

Mr. FONG. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. McGEE. Mr. President, I ask unanimous consent that S. 3647 be indefinitely postposed.

The motion to postpone was agreed to.

Mr. McGEE. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make any necessary technical and clerical corrections in the engrossment of the Senate amendments.

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

Mr. McGEE. Mr. President, I ask unanimous consent that the Senate insist upon its amendments, and request a conference with the House of Representatives thereon, 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. FONG, Mr. RANDOLPH, and Mr. McGEE conferees on the part of the Senate.

CONSUMER PROTECTION AGENCY ACT

The PRESIDING OFFICER. The Senate will resume consideration of the unfinished business which the clerk will report.

The legislative clerk read as follows:

(A bill (S. 707) to establish a council of consumer advisors in the Executive Office of the President, to establish an independent Consumer Protection Agency, and to authorize a program of grants, in order to protect and serve the interests of consumers, and for other purposes.

DEPARTMENT OF AGRICULTURE-ENVIRONMENTAL CONSUMER PROTECTION APPROPRIATION, 1975

Mr. MANSFIELD. Mr. President, I ask that the pending business be laid aside temporarily and the Senate turn to the consideration of Calendar No. 974, H.R. 15472, so that it may be the pending business.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

An act making appropriations for agricultural-environmental and consumer protection programs for the fiscal year ending June 30, 1975, and for other purposes.

SOUTH KOREAN DEFENDANTS: ANGRY POET AND FRAIL FORMER PRESIDENT

Mr. FULBRIGHT. Mr. President, will the Senator yield 30 seconds for the introduction of a bill?

Mr. JAVITS. Yes.

Mr. FULBRIGHT. In today's New York Times, there appears an article datelined Seoul, Korea, by Fox Butterfield, about the recent drive of the government to stifle all dissent against that regime

Since we now have before the Congress the foreign aid bills in which large sums of our people's money is to be given to the Government of Korea, I think it should be of interest to my colleagues to see what we are supporting with our money.

Ninety-one people have so far been convicted, 14 sentenced to death and another 100 awaiting trial for the crime of advocating democracy in that country.

I am constantly astonished that the Members of this body are willing and eager to support such repressive regimes as that which exists in Korea and Greece, but at the same time are so shocked by the immigration policies of the Soviet Union. It is, at least, an interesting psychological question to reconcile these views.

I ask unanimous consent to insert this article in the RECORD.

SOUTH KOREAN DEFENDANTS: ANGRY POET AND FRAIL FORMER PRESIDENT

(By Fox Butterfield)

SEOUL, SOUTH KOREA, July 17.—When Kim Chi Ha, South Korea's best-known young poet, heard a death sentence pronounced against him by a military judge last week, he was reported to have laughed.

"Even a sparrow squeaks before dying!" he is said to have shouted, quoting a Korean proverb. "So let me tell you my cause is just. I would do the same thing over again if I am released."

Yesterday, before another military tribunal, a former President of South Korea, Yun Po Sun, calmly admitted having given the equivalent of $1,000 to dissident students. Under emergency decrees proclaimed by President Park Chung Hee this year, that is a crime punishable by death.

The two defendants seem unlikely associates, either in crime or in their blunt defiance of the Government. Mr. Kim, 33 years old, is a brilliant satirical poet whose writing has twice been interrupted by bouts of tuberculosis. Mr. Yun, 77, is a frail, reclusive elder statesman from an old aristocratic family. They have been thrown together in the most sweeping series of political trials in South Korea's troubled history.

NINETY-ONE CONVICTED SO FAR

The trials, which began in February and March but then slackened off until June, are President Park's response to demonstrations last winter against his increasingly authoritarian 13-year rule. Ninety-one people have been convicted so far—14 of them sentenced to death—and it is estimated that 100 or more are in jail awaiting trial.

The prisoners, including clergymen, professors, students and members of the opposition, share certain links. They are largely from the urban middle class and well educated, and many are members of the Christian minority of 12 per cent, which has long played an active role in politics and movements for social justice.

Mr. Kim, a Roman Catholic, has long been under the influence of the Most Rev. Daniel Chi, the most outspoken Catholic leader, who was himself arrested last week but then released. For several years, Mr. Kim lived with and worked for the Bishop, and one of the charges against both of them was that Mr. Kim took money from the Bishop to give to student demonstrators.

Many years ago Mr. Yun's father built a small brick Presbyterian church next to their sprawling traditional home, which covers several acres in downtown Seoul.

"All we are working for is democracy in this country," Mr. Yun explained to a visitor earlier this week. Yesterday he was placed under house arrest and forbidden to talk with correspondents.

COMMUNIST LINK DENIED

"The students are Christians, not Communists," Mr. Yun said the other day, speaking in the English he learned 50 years ago as a student in Scotland. "If we don't have

democracy here, why did the American soldiers come to Korea to fight and die?"

He sat on an old, carved Chinese-style wooden chair, surrounded by antique porcelain vases and scroll paint-ancestors. Above his head was a Chinese inscription reading, "Study and loyalty to repay the nation." It was drawn in the 19th century by one of Korea's last kings.

Mr. Yun, was elected President in 1960 after the overthrow of President Syngman Rhee, walks slowly with the aid of a cane. Seventy members of his family once inhabited the home—actually a series of tile-roofed compounds joined around a park—but only he and his wife live there now.

Mrs. Yun accompanied her husband to the court-martial yesterday. Each defendant is allowed to have only one close family member present.

Mr. Kim's wife went to the dozen sessions of her husband's trial, taking with her their son, born since Mr. Kim was arrested in April. She has not been allowed to visit him in prison or exchange letters with him.

IDENTITY IS CONCEALED

Though Mr. Kim is well known, many Koreans still are not aware that he was tried and given the death penalty. In announcing the verdict a military spokesman described him only by his little-used original name, Kim Young Il, and the strictly controlled press did not venture to supply the missing information.

To avoid her own arrest, Mrs. Kim declined to speculate whether the charges against her husband were true. However, a letter circulating in Seoul that was drawn up by families of some of the 54 others convicted in the same trial alleges that the Government manufactured the evidence and subjected the prisoners to "intolerable torture by water, electricity and denial of sleep."

Whatever the Government's case, there is no doubt that Mr. Kim's writing has incensed President Park for years. His poetry, in a lyrical, compelling style that drew heavily on traditional folk themes and classical allusions, grew more and more political.

His most famous poem, titled "The Five Thieves," describes an orgiastic contest in corruption between officials, businessmen and generals. It says:

Long ago peace reigned over the land.
Farmers ate to their fill. Many died of ruptured sides.
People went naked because they became tired of fine silk.
But right in the middle of Seoul there lived five thieves.
Watch the general—he crawls on all fours, with tens of thousands of medals made of gold and silver wrapped around his body.
He misappropriates his soldiers' rice and fills the sacks with sand.
What wonderful war tactics he has.

ORDER FOR NOTIFICATION OF THE PRESIDENT OF THE CONFIRMATION OF EXECUTIVE NOMINATIONS

Mr. MANSFIELD. Mr. President, on July 15 the Senate confirmed a number of nominations to the U.S. Railway Association, the National Railroad Passenger Corporation, and the Federal Energy Administration. The nominations were as follows:

U.S. RAILWAY ASSOCIATION

Arthur D. Lewis, of Connecticut, to be chairman of the Board of Directors of the U.S. Railway Association for a term of 4 years.

NATIONAL RAILROAD PASSENGER CORPORATION

Gerald D. Morgan, of Maryland, to be a Member of the Board of Directors of the National Railroad Passenger Corporation for a term of 4 years.

FEDERAL ENERGY ADMINISTRATION

The following-named persons to be Assistant Administrators of the Federal Energy Administration:

Leonard B. Pouliot, of Virginia.
John W. Weber, of Connecticut.
Eric Roger Zausner, of Virginia.

As in executive session, I move at this time that the President be notified of the confirmation of those nominations, so that they can be expedited to the White House for his signature.

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

CONSUMER PROTECTION AGENCY ACT

The Senate continued with the consideration of the bill (S. 707) to establish a Council of Consumer Advisers in the Executive Office of the President, to establish an independent Consumer Protection Agency, and to authorize a program of grants, in order to protect and serve the interests of consumers, and for other purposes.

Mr. HUMPHREY. Mr. President, I ask unanimous consent that Robert Kerr of my staff be given the privilege of the floor during the consideration of this bill (S. 707).

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on July 18, 1974, he presented to the President of the United States the following enrolled bill:

S. 3679. An act to provide temporary emergency livestock financing through the establishment of a guaranteed loan program.

ORDER FOR TRANSACTION OF ROUTINE MORNING BUSINESS ON MONDAY NEXT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Monday, after the remarks of Mr. STENNIS, for which an order has already been entered, there be a period for the transaction of routine morning business of not to exceed 15 minutes, with statements limited therein to 5 minutes each.

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

ORDER FOR CONSIDERATION ON MONDAY OF H.R. 15472, APPROPRIATIONS FOR AGRICULTURE-ENVIRONMENTAL AND CONSUMER PROTECTION PROGRAMS

Mr. ROBERT C. BYRD. Mr. President, the Senate will convene again on Monday next at the hour of 10 a.m. After the two leaders or their designees have been recognized under the standing order, Mr. STENNIS will be recognized for not to exceed 15 minutes, after which there will be a period for the transaction of routine morning business, of not to exceed 15 minutes, with statements limited therein to 5 minutes each, at the conclusion of which period the Senate will resume consideration of H.R. 15472, an act making appropriations for agricultural, environmental, and consumer protection programs for the fiscal year ending June 30, 1975, and for other purposes.

There is a time agreement on that bill under which no votes will occur before the hour of 3:30 p.m., and under which a final vote on the disposition of the bill will occur at 5 p.m., on Monday.

There will be rollcall votes on final passage of the bill and on amendments thereto.

ADJOURNMENT UNTIL 10 A.M. MONDAY

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand adjourned until 10 o'clock on Monday next.

The motion was agreed to; and at 4:52 p.m., the Senate adjourned until Monday, June 22, 1974, at 10 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate July 18, 1974:

NATIONAL RAILROAD PASSENGER CORPORATION

Roger Lewis, of the District of Columbia, to be a member of the Board of Directors of the National Railroad Passenger Corporation for a term of 2 years.

DEPARTMENT OF STATE

Robert P. Smith, of Texas, a Foreign Service officer of class 2, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Malta.

James B. Engle, of the District of Columbia, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Dahomey.

COUNCIL ON INTERNATIONAL POLICY

William D. Eberle, of Connecticut, to be Executive Director of the Council on International Economic Policy.

(The above nominations were approved subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA

H. Mason Neely, of the District of Columbia, for a term of 3 years expiring June 30, 1977.

HOUSE OF REPRESENTATIVES—*Thursday, July 18, 1974*

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

He leads the humble in what is right and teaches the humble His way.—Psalms 25: 9.

God be in the morning of our day and in the evening hours when our work is done; be in the thoughts that live in our minds, in the emotions which move our hearts, and in the daily labor of our hands that they may be acceptable in Thy sight who are our Strength and our Redeemer.

Cleanse our national life from discord, violence, and suspicion, from pride and prejudice and every evil way. Keep us from hating one another lest in our hatred we hurt ourselves.

In the midst of the work of this day keep us aware of Thy presence and let the light of Thy wisdom fall upon our pathway.

In the spirit of Christ we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate agrees to the amendments of the House to a bill of the Senate of the following title:

S. 3679. An act to provide emergency financing for livestock producers.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 6642. An act to suspend the duties of certain bicycle parts and accessories until the close of December 31, 1976.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 1566. An act to provide for the normal flow of ocean commerce between Hawaii, Guam, American Samoa, or the Trust Territory of the Pacific Islands and the west coast, and to prevent certain interruptions thereof; and

S. 1791. An act 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.

PERMISSION FOR COMMITTEE ON APPROPRIATIONS TO FILE PRIVILEGED REPORT ON DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS, 1975

Mrs. HANSEN of Washington. Mr. Speaker, I ask unanimous consent that the Committee on Appropriations may have until midnight tonight to file a privileged report on the Department of the Interior and related agencies appropriations bill for 1975.

Mr. McDADE reserved all points of order on the bill.

The SPEAKER. Is there objection to the request of the gentlewoman from Washington?

There was no objection.

COMPOSITION OF COMMITTEE ON PUBLIC WORKS DURING REMAINDER OF 93D CONGRESS

Mr. O'NEILL. Mr. Speaker, I offer a resolution (H. Res. 1243) and ask unanimous consent for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 1243

Resolved, That during the remainder of 93d Congress, the Committee on Public Works shall be composed of 42 members.

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

There was no objection.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PROVIDING ASSISTANCE TO RURAL VOLUNTEER FIRE DEPARTMENTS

(Mr. MIZELL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MIZELL. Mr. Speaker, many of my colleagues joined me on June 26, 1974, in voting for my amendment to the agriculture appropriations bill to give rural volunteer fire departments $7 million to acquire badly needed equipment, training, and facilities.

Those of you who supported the amendment will be happy to learn that yesterday the Senate Appropriations Committee reported its bill which included the $7 million appropriations.

KERNER MUST GO

(Mr. GROSS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GROSS. Mr. Speaker, I am sure all Members of the House are aware that Federal Judge Otto Kerner of the U.S. Seventh Circuit Court of Appeals, has been convicted of mail fraud, conspiracy, and tax evasion; he has exhausted all appeals and has been ordered to report to a Federal prison on July 29.

I am advised by the Director of the Administrative Office of the U.S. Courts that Judge Kerner's salary of $42,500 a year continues to be paid to his account in a Chicago bank and will continue to be paid to him for the rest of his life unless or until he resigns or is impeached.

It is outrageous and unthinkable that the American people should be forced to pay this man another dime in salary. Therefore, Mr. Speaker, on next Tuesday, July 23, or thereafter, unless Kerner has resigned, I intend to initiate action in the House of Representatives necessary to impeach him.

PRIVATE BRIEFING SESSIONS BY THE COMMITTEE ON THE JUDICIARY

(Mr. SHUSTER asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. SHUSTER. Mr. Speaker, I was told today by a member of the Committee on the Judiciary that the majority on the Committee on the Judiciary have been conducting private and therefore secret briefing sessions at night on the impeachment issue without the minority members being present.

Mr. Speaker, I hope I misunderstood, or I hope the information is inaccurate, but I call on the majority to confirm or refute the claim that they have been meeting separately on the impeachment issue.

It is a common practice for the majority and the minority to caucus separately on partisan issues, but did this happen in the case? If so, it uncovers the partisan nature of this inquiry.

Mr. Speaker, some of us have tried to keep an open mind on this subject, but the majority on the Committee on the Judiciary by its actions may well end up driving us into the President's corner.

SURFACE MINING CONTROL AND RECLAMATION ACT OF 1974

Mr. UDALL. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 11500) to provide for the regulation of surface coal mining operations in the United States, to authorize the Secretary of Interior to make grants to States to encourage the State regulation of surface mining, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from Arizona.

The motion was agreed to.

The SPEAKER. The Chair requests the gentleman from Massachusetts, Mr. BOLAND, to assume the Chair temporarily.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 11500, with Mr. BOLAND (Chairman pro tempore) in the chair.

The Clerk read the title of the bill.

Mr. HOSMER. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN pro tempore. Evidently a quorum is not present.

The Chair announces that he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

QUORUM CALL VACATED

The CHAIRMAN pro tempore. One hundred four Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to rule XXIII, clause 2, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

Before the Committee rose on yesterday, it had agreed that title I, ending on page 145, line 17, of the committee amendment in the nature of a substitute would be considered as read, printed in the RECORD, and open to amendment at any point. There was pending the amendment in the nature of a substitute offered by the gentleman from California (Mr. HOSMER), which constitutes the text of the bill H.R. 12898.

The gentleman from California is recognized at this time in support of his amendment.

(Mr. HOSMER asked and was given permission to revise and extend his remarks.)

Mr. HOSMER. Mr. Chairman, as I have indicated in the past during the proceedings in the Committee on Interior and Insular Affairs with respect to the proposition of attempting to regulate the surface mining of coal in order to prevent environmental depredations, it came to me that the writing of the bill was in the hands of those, however properly and honestly, who were dedicated almost exclusively to the protection of the environment that our society honors and holds dear. But in this focus, this narrow focus upon environmental considerations, it turns out that other considerations of equal importance in our society were being neglected. In this case most importantly the energy ethic.

To my mind, in my reading of history, the United States of America is indeed a unique political society and a unique economic society. This country from its very beginning was built on a foundation consisting of the ideas and beliefs and moralities of its people combined with ready access to, and availability of, energy. As the industrial revolution came to America and as our Constitution was written and as our country grew and developed from 13 struggling colonies into a great Nation of 50 States, the fundamental underpinning in a physical way of that society was this abundant availability of energy.

We were taught a lesson about that only a few months ago, last winter, when temporarily the Arab oil embargo cut off about 10 percent of our petroleum energy. What happened? The fabric of this society of ours that was underpinned by this availability of energy commenced to shake and to crack. Had that embargo continued until today, the United States would not be the strong, powerful, world-dominating nation that it is. Weakness, the lack of power, would eventually collapse us from within.

Therefore I reached the determination that it was my duty, and the duty of those who see as I do about the need to preserve our country and our way of life, to do everything in our power to bring about legislation which respects both ethics and not just one of them, which does not in its desire to clean up the environment dump the country into a vortex of political chaos, and economic depression.

I tried to draft the bill, H.R. 12898, which is now before us, so that it would accomplish these ends. So that it would not permit anybody to surface mine coal in this country if the land could not be reclaimed afterward. But, so that under this bill if they can dig coal and if the land can so be reclaimed and will so be reclaimed, the operation can continue.

The committee has chosen to draft legislation which, in effect, if not in bold language, will cripple much of the national capability to produce coal by surface methods. It has done so by giving lip service to reason but, in the final analysis, writing a bill which in many parts of the country will simply prohibit surface mining. Moreover, the committee has gone beyond the question of surface mining and extended the purview of the bill to the underground sector as well.

In 1973 surface mining of coal accounted for approximately 49 percent of production. Of that amount, 211 million tons—73 percent—was consumed by electric utilities.

Surface mining occurs in practically every state where coal is mined. Kentucky leads in surface mining output in terms of tonnage but in many states such as Indiana, Arizona, Alaska, Montana, North Dakota, Texas, Kansas, and Wyoming, surface mining accounts for virtually all the coal produced.

Surface mining has grown rapidly in the past several years as a result of a number of economic and geologic factors. It also has grown because of technological innovations which both enhance production efficiency and the capability to restore or reclaim mined land. However, for three years its increase in percentage of national output has slowed and even dropped slightly. This is largely the result of fears about the enactment of just such a bill as H.R. 11500.

There does not appear to be any feasible way to replace surface mining tonnage with deep tonnage, especially in the short or mid-term. Indeed, to the extent that such a conversion would be forced, the cost may well be measured both in terms of human life as well as in dollars. Thus, a bill such as H.R. 12898, which stops environmental degradation while still facilitating the extraction of needed energy resources, is the essence of reason.

The proponents of H.R. 11500 ignore a basic fact of life insofar as coal production is concerned and that fact is that America needs every pound of coal our mines can produce. From surface and from underground, from East, Midwest, and West, the major task of the American coal industry is to produce coal in ever increasing quantities. The objective of our legislation should be to insure that this surface mining is done properly and is followed by effective reclamation. As it stands, H.R. 11500 simply ducks the problems of reclamation by preventing mining.

It will impose arbitrary and unreasonable restrictions and standards on the surface mining of coal. The result will be disastrous to every American who relies in any major way on energy to support his lifestyle. And, that includes just about everybody.

Fewer than 5 percent of the surface coal mines in the United States produce as much as 200,000 tons of coal annually. This is an antismall business bill as well because 65 percent of the 2,309 surface coal mines in the United States produce 50,000 tons or less a year. Such small operations could never afford to research and prepare the exaggerated and unreasonably detailed mining permit applications H.R. 11500 requires.

The excessive costs of compliance with, and administration of its unnecessary requirements and overly restrictive standards of performance will hit hard at every consumer's pocketbook—not just in terms of his electric power bill, bill, but also in the cost of every item he buys, because no product comes to the market today without a substantial component of energy cost. Thus H.R. 11500 is also an anticonsumer bill.

It is unquestionably a most confused bill. Two hundred and two amendments to H.R. 11500 were sponsored during committee consideration. A whopping 137 actually were called up and 88 adopted while 49 were rejected. Many of those 49 were rejected without consideration on the merits because debate was arbitrarily foreclosed by a closure resolution. Of the 202 amendments, 98 were offered by various sponsors of H.R. 11500; and of those 98 amendments, 97 were sponsored by members of the two subcommittees—environment and mines and mining—which handled the bill. An additional 48 amendments were sponsored by subcommittee members who were not sponsors of the bill, yielding a total of 145 amendments sponsored by members of the two subcommittees. These statistics are recounted as inconvertible evidence of how sorry a vehicle H.R. 11500 is.

This clearly demonstrates that H.R. 11500 as developed in 20 joint subcommittee markup sessions was unworkable. Unfortunately, after 19 markup sessions in the full committee, the bill still remains a bad product.

Title II is called the "heart of the bill," since it includes all of the procedural and performance requirements. It would seem, therefore, that the most careful consideration should have been given to

this title, and that amendments would have been carefully explained and discussed by the committee prior to adoption or rejection of the amendment on its merits. This is particularly true because the legislative history of a measure can be very important to its ultimate interpretation by administrators and courts. Where no legislative history exists, the courts are left to their own imaginative interpretation of the legislative language unaided and without guidance from a clear expression of legislative intent. It would follow, therefore, that a thorough committee discussion and analysis of title II, and of amendments proposed and adopted or rejected, would have been regarded as essential, not just for guidance in writing the committee report, but also for those who will later be called upon to interpret and implement the legislative language.

But what are the facts?

The committee adopted a gag rule on April 3. Under that rule, 58 amendments to title II were to be disposed of without debate. With the exception of a few comments here and there, the record will disclose that the gag rule remained in force throughout the entire so-called consideration of title II.

Having failed to establish a legislative history concerning the "heart of the bill," it follows that the Secretary of the Interior, the States, the courts and the industry are left unaided in interpreting it. They will be on their own in extremely troubled waters.

A careful analysis of the various time factors in the bill will disclose a disregard for the numerous difficulties inherent in a "startup" regulatory program as complex as this. Delays in the opening of new mines are almost a certainty. The shutdown of some existing mines is more than likely. Expansion of existing mines will be delayed. The inevitable result will be a diminution of coal production in the short term. A delay in the expansion of coal production in the middle term.

H.R. 11500 will:

First. Impose arbitrary, confusing, unnecessary and unreasonable procedural requirements on the surface mining of coal. The results will be disastrous to consumers and small coal operators, making the bill anticonsumer and antismall business legislation—see title II, section 201 and section 211—H.R. 12898 will not do this;

Second. Illogically require each State to designate areas unsuitable for surface coal mining based solely on some regulator's arbitrary determination of whether reclamation is physically and economically possible. It allows no consideration of new mining and reclamation methods or other factors influencing a surface coal mine operator's economic ability to demonstrate that proper reclamation of such lands can be accomplished—see section 206—H.R. 12898 will not do this;

Third. Needlessly impose a costly, burdensome and onerous task upon any coal operator to submit detailed information with his permit application to surface mine coal. The economic impact of supplying such sophisticated and costly information will ultimately squeeze many small coal operators—whose contributions to the energy supply are essential—out of business—see sections 208, 209, 210, 213, 214, 215, 217, 218—H.R. 12898 will require essential and relevant information;

Fourth. Needlessly impose arbitrary and unreasonable environmental protection performance standards by:

Prohibiting the placement of spoil, and so forth, on the downslope in contour (mountain) surface coal mining even though it is to be properly shaped, graded and revegetated. This is an antismall business provision since it is largely small operators who operate on steep slopes—see sections 201(b)(1) and 211(c)(1)—H.R. 12898 differs considerably;

Requiring the restoration of the approximate original contour of the land after surface mining by backfilling, compacting and grading of the land with all highwalls, spoil piles and depressions eliminated. In many cases these steps may be unnecessary for putting the mined land in a responsible condition. When they are not necessary this requirement imposes a very costly and often physically impossible burden of finding enough soil to fill in the area, replace the overburden and topsoil and restore the land to its "approximate original contour—see sections 201(b)(2)(A) and 211(b)(8)—H.R. 12898 is less burdensome;

Requiring absolute preservation of the hydrologic integrity of alluvial valley floors and the restoration of the water recharge capacity of the minesite to approximate premining conditions as a prerequisite to obtaining a permit to surface mine coal. This assumes that nature's momentary hydrological conditions, which are sometimes sad, indeed, must be forever preserved and never improved, and to do all this would require the possession of the omnipotent powers of a Deity—see section 211(b)(14)(D) and (E)—H.R. 12898 is less absolute;

Fifth. Regulate underground coal mining operations and the surface effects of underground coal mining by imposing arbitrary and unreasonable procedural and environmental standards—see section 212. The regulation of underground mining is a separate subject and should not be confused with surface mining regulation. H.R. 12898 does not do this;

Sixth. Require the enforcement of unreasonable permit provisions that are overly harsh and needlessly discourage mining. They include civil penalties of up to $10,000 per day and criminal penalties of a $10,000 fine and/or 1 year's imprisonment and authority to issue arbitrary "shutdown orders" by inspectors and individuals from various Federal agencies as well as the States with limited and varying expertise or knowledge of surface mining operations and problems—see sections 220 and 224—H.R. 12898 does not do this;

Seventh. Permits citizen's suits, and public participation in all procedural matters and allows for almost constant intervention by third parties thus creating a level of litigious harassment which could lead to mischief and abuse of the legal process—see section 223—H.R. 12898 does not do this and requires those seeking to enforce its provisions to have a real and legitimate interest which they seek to protect;

Eighth. Impose a moratorium on surface coal mining on Federal and Indian lands by incorporating immediately upon enactment of H.R. 11500 all the procedural requirements and environmental standards to all surface mining and reclamation operations on federal lands. This will impose, together with tribal approval or disapproval, at a minimum, an 18-month moratorium on permits for new surface coal mining operations on Federal lands—see section 225 and title III—H.R. 12898 does not do this;

Ninth. Imposes a reclamation tax calculated on the basis of total BTU's contained in the coal produced or imported during the preceding quarter. The proceeds will pay for the acquisition and reclamation of abandoned or inadequately reclaimed lands. This anticonsumer provision will inequitably increase costs of electrical energy for citizens who buy from utilities burning strip mined coal. Any obligation here is a national one, not a haphazard local obligation—see title IV, section 401 et. seq.—H.R. 12898 does not do this; and

Tenth. Unfairly grants to surface owners—where the mineral and surface rights are in separate ownership—a veto power over the disposition of federally or privately owned coal. This could amount to a very substantial windfall to the surface owner and require the leasee-coal operator to pay twice for the same coal, first to the Federal Goverment for the lease, and second to the surface owner or leasee for his written consent to mine—see section 709—H.R. 12898 does not do this.

H.R. 12898—A VIABLE ALTERNATIVE

The wide scale adverse reaction to H.R. 11500 since it was reported by the Subcommittees together with the descent of the energy crisis has demonstrated the need to seek a legislative vehicle which provides a balanced and reasonable approach to the regulation of surface or strip coal mining. H.R. 11500 will stifle coal production at the very moment that as a Nation our national interest requires that it be increased. Millions of people have never seen a strip mine, but over a hundred million people in the last few months have seen a gasoline line at their neighborhood filling station. The need for coal, petroleum and all forms of energy is apparent, great and growing. In the face of that, something has to give. Considerations other than the strictly environmental ones must be brought fairly into play.

H.R. 12898 does that.

H.R. 12898 is a bill which is firmly committed to the strict regulation of surface coal mining in order to prevent the desecration of our natural inheritance by reckless mining practices and the shameful neglect of a sound reclamation program.

H.R. 12898 is a bill which is environmentally sound in protecting society from the adverse effects of surface mining.

H.R. 12898 calls for the expenditures and the efforts necessary to dig coal and obtain its value without, at the same time, sacrificing other values.

It will cost money to preserve environmental values. But preserving them is worth that money and the cost will be paid by the users of energy. However, there will be users of energy, because there will be energy to use. That is what H.R. 12898 will accomplish. That is what H.R. 11500 would not accomplish.

H.R. 12898 calls for the strict Federal regulation of surface coal mining operations, and authorizes the Secretary of the Interior to make grants to the States to encourage them to likewise regulate surface coal mining.

H.R. 12898 must be a good bill because it seems to make everybody a little unhappy: the administration does not like parts of it, the environmentalists do not like the idea of EPA being denied an arbitrary veto in the coal mining area and industry is screaming that it is being put in a straitjacket and threatened with jail. That is OK. Let them all scream. Let them all come in with their amendments and let the full U.S. House of Representatives resolve the issues. It is not a perfect bill, but it is written clearly and in a manner which is amendable. In contrast, H.R. 11500 has been turned into such a legislative nightmare that amending it is an almost impossible task.

In putting H.R. 12898 together, the views of all parties concerned was sought and their input requested. This is what can be called a ratcheting process. We sought to let them work out their frustrations and discover for themselves how hard it is to write a bill and how much compromise is required in the legislative process.

In seeking consensus on the various proposals and counterproposals, we hoped to produce a resignation to the need to fairly balance environmental values and energy values and other values recognized by society. We believe coal industry people and utility representatives will huff and puff, but eventually acknowledge H.R. 12898 as a superior vehicle for markup purposes and probably have some amendments they want. We do not expect the environmentalists who had the major hand in designing the one-sided H.R. 11500 will embrace H.R. 12898, but possibly if they really believe there should be legislation on this subject this year, they could grudgingly admit that it can be done with H.R. 12898 and a bill with reasonable respect for the environment enacted.

To reiterate, the objective of H.R. 12898 as a substitute for H.R. 11500 is to continue the production of coal by surface coal mining techniques, with due respect for the environment, and a conscious consideration of the energy requirements of this Nation. The ratcheting approach to writing this legislation has produced a reasonable bill that is a sound alternative to H.R. 11500. As a substitute H.R. 12898 can be marked up, amended, and be subjected to the full legislative process.

There should be no illusion that H.R. 12898 will accomplish its environmental objectives at no increase in the cost of coal to the consumer. Nobody gets something for nothing. It was cheap to rape the landscape. We will have to, and we should, pay to stop that sort of foolish waste. The increased cost of coal to the consumer which will result from the substitute bill is the necesary trade-off for the provisions to protect the environment from recurrence of the past excesses of irresponsible surface mine operators.

The following are amongst the major provisions of H.R. 12898, the balanced substitute for the unbalanced H.R. 11500:

First. An interim regulatory procedure which will take effect within 90 days from the date of enactment. The interim permit will provide for the restoration of the approximate original contour, require topsoil replacement, and a stable and self-regenerative vegetative cover. It will prohibit spoil placement on steep slopes, require stabilization of waste piles and the burying of toxic material, require protection of water quality and quantity, and protection from offsite damages. The regulatory authority may alter downslope and contour restoration requirements only if it will result in the land ending up with an equal or better economic, or public use—section 201;

Second. A procedure requiring the Federal Government to establish minimum coal mining and reclamation guidelines for State regulatory and enforcement programs within 180 days following the date of enactment—section 202.

Third. Provisions for approval of State regulatory programs which meet stiff Federal guidelines for surface coal mining and reclamation operations—section 203;

Fourth. Provisions for a Federal program to be implemented on Federal lands and in States which fail to adopt a federally approved plan within 24 months after the date of enactment—sections 204, 221;

Fifth. A provision compelling the States and Federal agencies to establish an objective land review program for designating areas unsuitable for surface coal mining operations under existing technology because they cannot be properly reclaimed. Decisions would be based on public hearings and scientific data—section 205;

Sixth. A ban on surface coal mining operations except in accordance with 5-year renewable permits conditioned on adherence to a sound mining and reclamation plan setting forth the engineering techniques to be used in the surface coal mining and reclamation operation—sections 207–209, 212;

Seventh. The posting of a reclamation bond or deposit adequate to assure satisfactory and permanent reclamation of the mined land, adequate insurance to compensate for any offsite damages from mining operations—sections 210, 211;

Eighth. Comprehensive mining and reclamation performance standards for both surface coal mining and surface operations incidental to underground coal operations—sections 213–214;

Ninth. Provisions insuring public notice of permit applications and provisions for public hearings on promulgation of State and Federal standards, mining permit applications, bond release procedures, and a provision authorizing citizen suits—sections 215, 220;

Tenth. Provisions requiring both State and Federal inspections of surface mining operations together with provisions for adequate monitoring and recordkeeping. Provisions for studies of subsidence and underground waste disposal in coal mines—sections 216–218, 302;

Eleventh. Stiff penalty provisions for violations by mine operators, including revocation, suspension, permit denials, and civil and criminal fines and imprisonment of up to 1 year—section 219; and

Twelfth. Protection for owner of the surface estate by requiring written consent of the surface owner prior to issuance of a mining permit or, in lieu thereof, execution of a bond to secure payment for any damages to the surface estate as fixed by agreement or court order—section 308.

The provisions of H.R. 12898 and section by section analysis are as follows:

The uncontroverted testimony before the committee is that under H.R. 11500 we will preclude some amount, whether it is 10 percent or whether it is 65 percent of this Nation's available surface coal reserves from use, if H.R. 11500 is enacted. There is no controversy about that. And there should be no controversy about the fact that the Nation cannot stand this loss of energy.

The CHAIRMAN pro tempore. The time of the gentleman from California has expired.

Mr. HOSMER. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN pro tempore. Evidently a quorum is not present.

The Chair announces that he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

QUORUM CALL VACATED

The CHAIRMAN. One hundred members have appeared. A quorum of the Committee of the Whole is present. Pursuant to rule XXIII, clause 2, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

AMENDMENT OFFERED BY MR. KETCHUM TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. HOSMER FOR THE COMMITTEE AMENDMENT IN THE NATURE OF A SUBSTITUTE

Mr. KETCHUM. Mr. Chairman, I offer an amendment to the amendment in the

nature of a substitute offered by the gentleman from California (Mr. HOSMER) for the committee amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. KETCHUM to the amendment in the nature of a substitute offered by Mr. HOSMER for the committee amendment in the nature of a substitute: Page 17, line 25. Strike the period and insert the following: "to bring such program into compliance with the decision of the Secretary. However, a State shall not be barred from resubmitting a revised State program or submitting a new program at any time after a decision of disapproval by the Secretary."

Mr. KETCHUM. Mr. Chairman, the amendment which I am offering relates to the State program as it is defined in the Hosmer substitute. The purpose of the amendment is to make it crystal clear that the State has the right to submit a State program for approval of the Secretary at any time following initial approval or disapproval by the Secretary.

Under this amendment, the State may submit a revised program as a result of any number of factors which could cause a State to want to change its program and its administration, and the State does so by submitting a revised State program.

Mr. Chairman, this amendment also provides that a State whose program is disapproved at any time may resubmit a new or revised program for approval until the program is finally approved. Please understand that under the State program, if there has been a disapproval, that the Feds move in and establish a program.

Mr. HOSMER. Mr. Chairman, will the gentleman yield?

Mr. KETCHUM. I yield to the gentleman from California.

Mr. HOSMER. Mr. Chairman, this is essentially the language found in H.R. 11500, and I would be perfectly willing to see it go into the bill. I think it improves the bill.

It permits the State which for any reason does not want immediately to get into its own regulation program—perhaps it does not know it has coal reserves today, but it finds out 10 years later after all this activity has gone on under the substitute, if it is enacted—it can come in and say, "We would like to have a State program" and have the opportunity of going after one.

Therefore, Mr. Chairman, I support the amendment of the gentleman from California.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. KETCHUM. I yield to the gentleman from Arizona.

Mr. UDALL. Mr. Chairman, the gentleman's amendment is consistent with a similar provision in the committee bill. It is perfectly acceptable to us on this side.

Mr. KETCHUM. I thank the gentleman from Arizona.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. KETCHUM) to the amendment in the nature of a substitute offered by the gentleman from California (Mr. HOSMER) for the committee amendment in the nature of a substitute.

The amendment to the amendment in the nature of a substitute for the committee amendment in the nature of a substitute was agreed to.

AMENDMENT OFFERED BY MR. SYMMS TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. HOSMER FOR THE COMMITTEE AMENDMENT IN THE NATURE OF A SUBSTITUTE

Mr. SYMMS. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute offered by the gentleman from California (Mr. HOSMER) for the committee amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. SYMMS to the amendment in the nature of a substitute offered by Mr. HOSMER for the committee amendment in the nature of a substitute: Page 61, line 12, strike out all of "SEC. 217 (a)(2)" and insert in lieu thereof the following:

"(2) When, on the basis of any Federal inspection, the Secretary or his authorized representative determines that any condition or practice exists, or that any permittee is in violation of any requirement of this Act of any permit condition required by this Act, which condition, practice, or violation also creates an imminent danger to the health or safety of the public, or is causing, or can reasonably be expected to cause significant, imminent environmental harm to land, air, or water resources which cannot reasonably be considered reclaimable within the scope of the bonded reclamation plan, the Secretary or his authorized representative shall immediately order a cessation of surface coal mining and reclamation operations or the portion thereof relevant to the condition, practice, or violation. Such cessation order shall remain in effect until the Secretary or his authorized representative determines that the condition, practice, or violation has been abated or until modified, vacated, or terminated by the Secretary or his authorized representative pursuant to subparagraph (a)(5) of this section."

Page 62, line 25. Strike out "abated." and insert "abated or until modified, vacated, or terminated by the Secretary or his authorized representative pursuant to subparagraph (a)(5) of this section."

Page 91, line 11. Strike out "abated." and insert "abated by enforcement action pursuant to section 217(a)(3) of this Act or by judicial action."

Mr. SYMMS. Mr. Chairman, this amendment relates to the Federal enforcement of surface coal mining operations.

If I could very simply spell it out, what it does is give added enforcement to the agency so that in case there is jeopardy to life, property or environmental hazards, they actually have closure enforcement.

I think we felt that it was a weak spot in the bill, and it was a necessary part to make the Hosmer bill a strong environmental bill, as I am sure the gentleman from Arizona would like to have it.

Just to explain a little further, because of the many and varied types of activities which occur during surface mining and reclamation operations, conditions or practices that may occur on such operations which are not specifically covered by the requirements of the act. If the conditions or practices not specifically covered by the act or permit create imminent danger or environmental harm, as described above, the Federal inspector needs closure authority, which I spoke of earlier, to impose such conditions or practices, which are to be issued only if the environmental hazard to the public health or safety would not be corrected quickly enough by other administration action.

Mr. HOSMER. Mr. Chairman, will the gentleman yield?

Mr. SYMMS. I yield to the gentleman from California.

Mr. HOSMER. Mr. Chairman, I think that the amendment the gentleman has offered is a proper one and that it does take care of that contingency wherein there could be a possibility of the public health and safety being endangered under circumstances where, for some reason, there would not quickly be corrective measures taken, except by authority of the regulatory authority.

Therefore, I think this is an improvement of the bill. It is an improvement that was recommended by the administration, and I hope the gentleman's amendment will prevail.

Mr. SYMMS. I thank the gentleman for his contribution. Would the gentleman from Arizona yield for a question from me?

I just ask the gentleman from Arizona if he would not agree that this would strengthen the Hosmer substitute, although I realize the gentleman from Arizona has the committee bill which he is supporting and that this would not be considered an improvement that substantially strengthens that bill.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. SYMMS. I yield to the gentleman from Arizona.

Mr. UDALL. Whether this weakens enforcement as I believe or strengthens it, certainly such a provision would not be acceptable to me.

However, I think the gentleman from California (Mr. HOSMER) is entitled to have his amendment in the nature of a substitute brought before the Committee of the Whole in whatever form he wants, so from that standpoint I take no position on it. It is perfectly all right with me if the committee wishes to adopt it.

Mr. SYMMS. Mr. Chairman, I thank the gentleman for his comments.

According to my understanding, I believe this amendment would actually strengthen the Hosmer substitute, insofar as protecting the environment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Idaho (Mr. SYMMS) to the amendment in the nature of a substitute offered by the gentleman from California (Mr. HOSMER) for the committee amendment in the nature of a substitute.

Mr. HOSMER. Mr. Chairman, on that I demand a recorded vote.

A recorded vote was refused.

The amendment to the amendment in the nature of a substitute for the com-

mittee amendment in the nature of a substitute was agreed to.

Mr. HOSMER. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

The Chair announces that he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to rule XXIII, clause 2, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

AMENDMENT OFFERED BY MR. ROUSSELOT TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. HOSMER FOR THE COMMITTEE AMENDMENT IN THE NATURE OF A SUBSTITUTE

Mr. ROUSSELOT. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute offered by the gentleman from California (Mr. HOSMER) for the committee amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. ROUSSELOT to the amendment in the nature of a substitute offered by Mr. HOSMER for the committee amendment in the nature of a substitute: Page 83, line 17. Strike out "SEC. 307" and insert a new "SEC. 307" to read as follows:

"SEC. 307. (a) Where the surface owner is not the owner of the mineral estate proposed to be mined by surface coal mining operations, the application for a permit shall include the execution of a bond or undertaking to the United States, the State, or the owner of the surface estate, whichever is applicable, for the use and benefit of the owner of the surface estate, to secure the payment of damages to the surface estate caused by the surface coal mining operations.

"(b) Upon a determination by the regulatory authority that damages to the surface estate has occurred, the owned of the surface estate shall be entitled to direct payment of up to eighty percent of the value of the bond or undertaking, executed pursuant to subsection (a) of this section, based upon the average value of surface estate as determined by at least two Federal or State qualified and licensed appraisers, and the payment of any damages in excess of eighty percent of the value of the bond or undertaking shall be determined by an action brought upon the bond or against the operator in a court of competent jurisdiction, and attorney fees and costs awarded in the discretion of court."

Mr. HOSMER. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present. The call will be taken by electronic device.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 388]

Andrews, N. Dak.	Badillo	Breaux
Arends	Baker	Brotzman
Ashley	Brasco	Burlison, Mo.
	Bray	Carey, N.Y.
Carney, Ohio	Hanna	Rhodes
Chisholm	Hansen, Idaho	Robison, N.Y.
Clark	Hansen, Wash.	Rooney, N.Y.
Clawson, Del	Harsha	Rose
Clay	Hawkins	Shuster
Cohen	Hébert	Sisk
Conyers	Heckler, Mass.	Steed
Davis, Ga.	Howard	Steiger, Ariz.
Davis, S.C.	Ichord	Stuckey
Denholm	Jones, N.C.	Symington
Diggs	Jones, Tenn.	Teague
Dorn	Landrum	Tiernan
Dulski	Leggett	Ullman
Evans, Colo.	McCormack	Wilson, Charles H., Calif.
Fisher	McEwen	
Ford	Mayne	Wilson, Charles, Tex.
Gettys	Mills	
Grasso	Owens	Zwach
Green, Oreg.	Pritchard	
Gubser	Reid	

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. SMITH of Iowa, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill H.R. 11500, and finding itself without a quorum, he had directed the Members to record their presence by electronic device, whereupon 367 Members recorded their presence, a quorum, and he submitted herewith the names of the absentees to be spread upon the journal.

The Committee resumed its sitting.

The CHAIRMAN. The Chair recognizes the gentleman from California (Mr. ROUSSELOT).

Mr. ROBERT W. DANIEL, JR. Mr. Chairman, will the gentleman yield?

Mr. ROUSSELOT. Mr. Chairman, I yield to the gentleman from Virginia (Mr. ROBERT W. DANIEL, JR.).

Mr. ROBERT W. DANIEL, JR. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, in order to meet America's energy needs and reduce our country's dependence on foreign oil in the years immediately ahead, we will need to double our coal production. At present surface mined coal accounts for half the 600 million tons annual coal production, and by 1980 some 800 million tons of coal may be surface mined annually.

I believe very strongly that the 100,000 acres that are surface mined annually should be restored during the mining process to mitigate the environmental impact of mining.

The country needs surface mining legislation which will permit increased coal production while protecting the environment during the mining and insuring that the land is returned to a usable state afterward. In my view, H.R. 11500, the committee bill, would not accomplish these goals.

H.R. 11550 would significantly reduce for the long run the Nation's coal base and, during this crucial phase of transition in our energy planning, would cut existing coal production. The Federal Bureau of Mines has estimated that the unfavorable impact of this legislation would amount to a cut in coal production of 187 million tons in 1975 and 251 million tons in 1980. I cannot vote for H.R. 11500, which would endanger our country's energy supply and make us even more dependent on foreign oil.

I do support the substitute bill, H.R. 12898, offered by Congressman HOSMER, on the grounds that this bill will permit significant expansion of coal surface mining while at the same time protecting the environment. H.R. 12898 would accomplish these goals by providing for the development of State programs to regulate surface mining and by requiring the subsequent reclamation of surface mined lands according to specific Federal environmental standards.

Mr. ROUSSELOT. Mr. Chairman, the purpose of this amendment is very simple in that it assures that the rights of the surface owners are protected where surface mining occurs, such as is described in this Hosmer substitute.

The amendment will guarantee that the surface owner, where damages to the surface of the land occur, can get direct consideration of 80 percent of the value of the bond.

It is my belief that the reason this is necessary is to be sure that the people or individuals who own the land will be assured that in case of bonding, at least 80 percent of that value will be available to the owner. The amendment makes sure that an owner does not have to be engaged in long litigation in order to so protect himself on the bonding procedure.

From what my colleague, the gentleman from Idaho, and several others have said, I know there was a close voice vote in the committee on this amendment. I would now like to yield to my colleague, the gentleman from California, who also supports this amendment.

Mr. HOSMER. Mr. Chairman, if the gentleman will yield, I do support the amendment. It allows the owner of the surface rights the opportunity to get 80 percent of his money without delay. He has to get affidavits from at least two qualified licensed appraisers as to the value of it, and he gets the average of the two estimates. Then only thereafter would he have to go to court. I would anticipate that in these cases or in that instance the suit would be settled promptly, so that in no time at all he would get 100 percent of his money without the necessity for litigation.

Mr. Chairman, I urge the adoption of the gentleman's amendment.

Mr. ROUSSELOT. Mr. Chairman, I yield to the gentleman from Idaho.

Mr. SYMMS. Mr. Chairman, I thank the gentleman for yielding. I rise in support of the amendment. I think it was originated by the gentleman from Montana as a committee bill. I think he would like to speak on it.

I would just like to say further that we are going to have a vote very shortly on the Hosmer substitute, and I rise in support of the Hosmer substitute.

The Hosmer bill would be acceptable to commonsense conservation and reclamation of our lands and I support it.

With this bill we could get on with the job of providing the Nation's energy needs. Many mining companys which are located in my district are eager to move

into coal mining operations but they want this issue settled before risking capital. I urge a "yes" vote for commonsense.

Mr. MELCHER. Mr. Chairman, will the gentleman yield?

Mr. ROUSSELOT. I yield to the gentleman from Montana.

Mr. MELCHER. I think the gentleman in the well stated that he believes this amendment was offered in the committee.

Mr. ROUSSELOT. According to committee staff it was presented to the committee.

Mr. MELCHER. To my knowledge, it was never offered in the committee. I would defer to anybody else who served on the committee if that was not the case. It was not offered by myself. I would very strongly object to it.

Mr. Chairman, I would ask the gentleman if he would yield further.

Mr. ROUSSELOT. Let me comment first on the gentleman's statement. I was informed by two members of the staff that it was presented. I am not a member of the committee, as the gentleman knows. Because I have a vital interest in trying to protect the landowner against unwarranted litigation, I wished to offer this protective amendment. It appeared to me to be a reasonable and correct amendment to protect the landowner against unwarranted litigation in relation to the bonding procedure in this bill.

So I felt it was a reasonable position. The gentleman now informs me that he does not recall the amendment. The gentleman is on the committee, and if he was not there when it occurred, I cannot comment on that.

Mr. Chairman, I would be glad to yield further to the gentleman, as he requested. Does the gentleman wish to comment on this further?

Mr. MELCHER. Mr. Chairman, if the gentleman will yield, is it the gentleman's intention that during the time when the mining company is determining whether or not it wants to mine a particular piece of land, the surface rights owner will be held in some type of a limbo as to when he will move off or how soon he must move off?

Mr. ROUSSELOT. No. My intention is, as I believe I stated, that where damage has occurred to the land surface, the landowner would not be prevented from having access to at least 80 percent of the value of the bond and would not be held up for long periods of time in litigation.

Mr. MELCHER. Mr. Chairman, I move to strike the requisite number of words and rise in opposition to the amendment.

Mr. Chairman, I wish to make it very clear that I have had no knowledge of such an amendment ever being offered in committee or in the subcommittee. If it had been and I were present during that time, I would certainly have opposed it vigorously.

This is completely contrary to my beliefs as to the property rights of a landowner. The amendment just tells a mining company to post a bond and that if the landowner does not like the bond, he can go to court and fight out what the values for the surface are.

Mr. Chairman, I am disappointed that the author of the amendment should even have offered it.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. ROUSSELOT) to the amendment in the nature of a substitute offered by the gentleman from California (Mr. HOSMER) for the committee amendment in the nature of a substitute.

The amendment to the amendment in the nature of a substitute for the committee amendment in the nature of a substitute was agreed to.

The CHAIRMAN. The question is on the amendment in the nature of a substitute offered by the gentleman from California (Mr. HOSMER), as amended, for the committee amendment in the nature of a substitute.

The question was taken.

RECORDED VOTE

Mr. UDALL. Mr. Chairman, on that I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 156, noes 255, not voting 23, as follows:

[Roll No. 389]

AYES—156

Annunzio	Froehlich	Parris
Archer	Gettys	Passman
Arends	Goldwater	Patman
Armstrong	Gray	Pettis
Ashbrook	Gross	Poage
Bauman	Gubser	Powell, Ohio
Beard	Guyer	Price, Tex.
Bevill	Hammer-schmidt	Quillen
Biaggi	Hanrahan	Railsback
Blackburn	Hansen, Idaho	Randall
Bowen	Hastings	Rarick
Bray	Hébert	Rhodes
Broyhill, Va.	Hillis	Roberts
Buchanan	Hinshaw	Robinson, Va.
Burgener	Hogan	Rousselot
Burleson, Tex.	Holifield	Runnels
Butler	Holt	Ruth
Byron	Hosmer	Sandman
Camp	Huber	Satterfield
Carter	Hudnut	Sebelius
Casey, Tex.	Hungate	Shriver
Cederberg	Hunt	Sisk
Chamberlain	Hutchinson	Skubitz
Chappell	Jarman	Slack
Clancy	Johnson, Calif.	Snyder
Clausen, Don H.	Johnson, Pa.	Spence
Cochran	Jones, Ala.	Staggers
Collier	Kazen	Steiger, Ariz.
Collins, Tex.	Ketchum	Stephens
Conable	Kluczynski	Stubblefield
Conlan	Kuykendall	Stuckey
Crane	Landgrebe	Symms
Daniel, Dan	Latta	Taylor, Mo.
Daniel, Robert W., Jr.	Lott	Thomson, Wis.
Davis, S.C.	Lujan	Towell, Nev.
Davis, Wis.	McClory	Treen
de la Garza	McCollister	Veysey
Delaney	McSpadden	Waggonner
Dennis	Mahon	Wampler
Derwinski	Martin, Nebr.	White
Devine	Michel	Whitehurst
Dickinson	Milford	Whitten
Downing	Miller	Wiggins
Duncan	Mills	Wilson, Bob
Edwards, Ala.	Minshall, Ohio	Winn
Erlenborn	Mollohan	Wyatt
Evins, Tenn.	Montgomery	Wyman
Fisher	Moorhead, Calif.	Young, Alaska
Flowers	Murphy, Ill.	Young, S.C.
Flynt	Myers	Young, Tex.
Forsythe	Nelsen	Zion
Frelinghuysen	Nichols	Zwach

NOES—255

Abdnor	Ginn	Peyser
Abzug	Gonzalez	Pickle
Adams	Goodling	Pike
Addabbo	Green, Oreg.	Podell
Alexander	Green, Pa.	Preyer
Anderson, Calif.	Griffiths	Price, Ill.
Anderson, Ill.	Grover	Pritchard
Andrews, N.C.	Gude	Quie
Andrews, N. Dak.	Gunter	Rangel
Ashley	Haley	Rees
Aspin	Hamilton	Regula
Badillo	Hanley	Reuss
Bafalis	Hanna	Riegle
Barrett	Hansen, Wash.	Rinaldo
Bell	Harrington	Robison, N.Y.
Bennett	Harsha	Rodino
Bergland	Hays	Roe
Biester	Hechler, W. Va.	Rogers
Bingham	Heckler, Mass.	Roncalio, Wyo.
Blatnik	Heinz	Roncallo, N.Y.
Boggs	Helstoski	Rooney, Pa.
Boland	Henderson	Rose
Bolling	Hicks	Rosenthal
Brademas	Holtzman	Rostenkowski
Breckinridge	Horton	Roush
Brinkley	Howard	Roy
Brooks	Johnson, Colo.	Roybal
Broomfield	Jones, N.C.	Ruppe
Brotzman	Jones, Okla.	Ryan
Brown, Calif.	Jordan	St Germain
Brown, Mich.	Karth	Sarasin
Brown, Ohio	Kastenmeier	Sarbanes
Broyhill, N.C.	Kemp	Scherle
Burke, Calif.	King	Schneebeli
Burke, Fla.	Koch	Schroeder
Burke, Mass.	Lagomarsino	Selberling
Burlison, Mo.	Landrum	Shipley
Burton, John	Leggett	Shoup
Burton, Phillip	Lehman	Shuster
Carney, Ohio	Lent	Sikes
Chisholm	Litton	Smith, Iowa
Clark	Long, La.	Smith, N.Y.
Cleveland	Long, Md.	Stanton, J. William
Cohen	Luken	Stanton, James V.
Collins, Ill.	McCloskey	Stark
Conte	McCormack	Steele
Conyers	McDade	Steelman
Corman	McEwen	Steiger, Wis.
Cotter	McFall	Stokes
Coughlin	McKay	Stratton
Cronin	McKinney	Studds
Culver	Macdonald	Sullivan
Daniels, Dominick V.	Madden	Talcott
Danielson	Madigan	Taylor, N.C.
Dellenback	Mallary	Thompson, N.J.
Dellums	Maraziti	Thone
Denholm	Martin, N.C.	Thornton
Dent	Mathias, Calif.	Tiernan
Diggs	Mathis, Ga.	Traxler
Dingell	Matsunaga	Udall
Donohue	Mayne	Ullman
Drinan	Mazzoli	Van Deerlin
du Pont	Meeds	Vander Jagt
Eckhardt	Melcher	Vander Veen
Edwards, Calif.	Metcalfe	Vanik
Eilberg	Mezvinsky	Vigorito
Esch	Minish	Waldie
Eshleman	Mink	Walsh
Evans, Colo.	Mitchell, Md.	Ware
Fascell	Mitchell, N.Y.	Whalen
Findley	Mizell	Widnall
Fish	Moakley	Williams
Flood	Morgan	Wilson, Charles H., Calif.
Foley	Mosher	Wolff
Ford	Murphy, N.Y.	Wright
Fountain	Murtha	Wydler
Fraser	Natcher	Wylie
Frenzel	Nedzi	Yates
Frey	Nix	Young, Fla.
Fulton	O'Brien	Young, Ga.
Fuqua	O'Hara	Young, Ill.
Gaydos	Obey	Zablocki
Giaimo	O'Neill	
Gibbons	Owens	
Gilman	Patten	
	Pepper	
	Perkins	

NOT VOTING—23

Baker	Dulski	Reid
Brasco	Grasso	Rooney, N.Y.
Breaux	Hawkins	Steed
Carey, N.Y.	Ichord	Symington
Clawson, Del	Jones, Tenn.	Teague
Clay	Kyros	Wilson, Charles, Tex.
Davis, Ga.	Mann	Yatron
Dorn	Moss	

So the amendment in the nature of a substitute, as amended, for the commit-

tee amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. HECHLER OF WEST VIRGINIA FOR THE COMMITTEE AMENDMENT IN THE NATURE OF A SUBSTITUTE

Mr. HECHLER of West Virginia. Mr. Chairman, I offer an amendment in the nature of a substitute for the committee amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. HECHLER of West Virginia for the committee amendment in the nature of a substitute:

Strike out all after the enacting clause and insert in lieu thereof the text of H.R. 15000 as follows:

That this Act may be cited as the "Strip Mining Abolition Act of 1974".

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Sec. 345. Definitions.

FINDINGS AND PURPOSE

SEC. 2. (a) The Congress finds and declares—

(1) that there are coal mining operations on public, private, and Indian lands in the Nation which adversely affect the environment by destroying or diminishing, for an indefinite period, the availability of public, private and Indian lands for recreational, commercial, industrial, agricultural, and forestry purposes, by causing erosion, landslides, and subsidence, by contributing to floods and the pollution of waters and air, by destroying fish and wildlife habitat and forests and otherwise impairing natural beauty, by frustrating efforts to conserve soil, water, and other natural resources, by damaging and destroying public and private property, and by creating hazards to life and property;

(2) that the public has a right to expect that the Federal Government, the States, and local government will utilize all practicable means and measures to protect and enhance the quality of the environment;

(3) that the integrity, productivity, and beauty of the land surface must be protected for the growing requirements of present and future generations;

(4) that the reserves of all needed grades of coal in the United States are sufficiently extensive to permit the protection of the land surface in ways which will stimulate the development and utilization of nondestructive and efficient mining technologies while preserving our capacity to supply coal for the needs of society;

(5) that coal mining operations are activities affecting interstate commerce which can contribute to the economic well-being, security, and general welfare of the Nation where conducted in a manner that will protect and enhance the quality of the human environment; and

(6) that the overwhelming percentage of the Nation's coal reserves can only be mined by underground mining methods and it is therefore essential to the national interest in order to meet the energy needs of the Nation to concentrate on underground mining rather than relying on the surface mining of coal.

(2) that the public has a right to expect that the Federal Government, the States, and local government persons in a comprehensive program to prevent further damage to the soil, woodlands, waters, and natural resources of the Nation from unregulated or inadequately regulated surface and underground coal mining operations, to stabilize lands damaged by surface coal mining, to promote an effective continuing conservation land-use and management program for the coal mining industry, and to assist any worker adversely affected by this Act.

ADMINISTRATION OF ACT

SEC. 3. Except as specifically provided in this Act, the Administrator of the Environmental Protection Agency (hereinafter called "Administrator") shall administer this Act.

PUBLIC PARTICIPATION

SEC. 4. Public participation in the development, revision, and enforcement of any regulation, standard, or guideline promulgated and permit issued under this Act, and in the administration of this Act, shall be provided for, encouraged, and assisted by the Administrator and the States. The Administrator shall within sixty days after enactment of this Act publish regulations to carry out the purposes of this section. Such regulations shall be promulgated within sixty days thereafter.

GENERAL POWERS OF THE ADMINISTRATOR

SEC. 5. The Administrator, according to the provisions of this Act, shall—

(1) prescribe, in accordance with the provisions of section 553 of title 5, United States Code, such rules and regulations as may be necessary to carry out his functions under this Act;

(2) make investigations or inspections necessary to insure compliance with this Act and the rules and regulations adopted pursuant thereto;

(3) conduct public hearings;

(4) issue cease-and-desist orders to halt violations of this Act;

(5) order the revocation, suspension, or modification of any permit for failure to comply with any of the provisions of this Act or any rule and regulation adopted pursuant thereto;

(6) appoint such advisory committees, the majority of whose members shall have no pecuniary interest in coal mining operations, and the meetings of which shall be open to the public, as may be of assistance to him in the development of programs and policies;

(7) review and vacate or modify orders and decisions issued by him;

(8) perform such other duties as are provided by this Act; and

(9) publish all findings and determinations required to be made by the Administrator under this Act.

TITLE I—ENVIRONMENTAL PROTECTION COAL MINING LIMITATIONS

PHASEOUT SCHEDULE

SEC. 101. (a) On or after the date of enactment of this Act, no person shall open or develop any new or previously mined and abandoned site for coal surface mining operations on lands within any State.

(b) Six months after the date of enactment of this Act, no person shall conduct contour surface coal mining operations on lands within any State. Contour surface coal mining operations active on the date of enactment of this Act may continue to operate subject to existing State surface mining laws for a period not to exceed six months.

(c) Any person who, on the date of enactment of this Act, is actively carrying out surface coal mining operations, other than contour surface coal mining, may continue to do so as provided in this Act (1) if such person obtains a permit from the Administrator within six months after the date of enactment of this Act, and (2) if the Administrator determines that such mining is not in violation of, or will not result in any violation of, any provision of this Act, any provision of the Clean Air Act, the Federal Water Pollution Control Act, or the Refuse Act of 1899, or any regulation, standard, or requirement promulgated pursuant to those Acts. Any permit issued to such operator shall be for a term of not to exceed twelve months and shall not be renewable, except that surface coal mining operations whose calendar year 1973 production exceeded five hundred thousand short tons and which are located in States west of the Mississippi River may apply for three one-year permit renewals. In addition to complying with all applicable provisions of this Act, such permit shall contain the following specific conditions:

(1) Annual production during the first permit renewal year shall not exceed the total surface coal production of this surface coal mining operation during calendar year 1973.

(2) Annual production during the second permit renewal year shall not exceed 75 per centum of the total surface coal production

of this surface coal mining operation during calendar year 1973.

(3) Annual production during the third permit renewal year shall not exceed 50 per centum of the total surface coal production of this surface coal mining operation during calendar year 1973.

(d) No coal mining shall be conducted after the date of enactment of this Act in any area of the National Wildlife Refuge System, the National Park System, the national forest system (including but not limited to the national grasslands), the National Wilderness Preservation System including any area under study as a wilderness area, the Wild and Scenic Rivers System, including study rivers designated under section 5(a) of the Wild and Scenic Rivers Act and in any State park, forest, or wildlife area.

PERMIT APPROVAL OR DENIAL

SEC. 102. (a) Six months after the date of enactment of this Act, no person shall engage in surface coal mining operations unless such person has obtained a permit in full compliance with this Act from the Administrator.

(b) Upon the basis of a complete mining application and stabilization plan, the Administrator shall grant or deny the application for a permit and notify the applicant in writing. Within ten days after the granting of a permit, the Administrator shall notify the State and the local official who has the duty of collecting real estate taxes in the local political subdivision in which the area of land to be affected is located that a permit has been issued and shall describe the location of the land.

(c) No permit shall be approved unless the Administrator finds in writing on the basis of the information set forth in the application or from information otherwise available which will be documented in the approval, and made available to the applicant and the public, that (1) the requirements of this Act, and the rules and regulations adopted thereunder will be met, (2) there is objective assurance that the stabilization of the area of affected land can be achieved, and (3) the proposed postmining land use is (A) compatible with surrounding land uses, exclusive of surface mining, (B) practical with respect to need or the surrounding land uses, and (C) reasonable with respect to the likelihood of availability of both public and private resources and support which may be needed to achieve such objectives.

(d) Prior to the issuance of a permit, the Administrator shall review and alter a proposed mining and stabilization plan with respect to the methods, sequence, timing of specific operations in the plan, or the deletion of specific operations or areas from part or all of the plan in order to assure that the environmental protection objectives of this Act are met.

(e) No permits shall be issued by the Administrator unless the permit application affirmatively demonstrates that, and the Administrator makes specific written findings to the effect that—

(1) there is probable cause to believe that the proposed surface coal mining operation will result in stabilization of the land area affected pursuant to the performance standards set forth in section 105 of this Act and regulations promulgated pursuant to this Act;

(2) the postmining land use as proposed in the stabilization plan is practical, is likely to be achieved, and is not inconsistent with surrounding land uses;

(3) the land to be affected does not lie within three hundred feet from any occupied dwelling, unless waived by the owner thereof, nor within three hundred feet of any public building, school, church, community, or institutional building, public park, or cemetery; nor shall the land to be affected lie within one hundred feet of the outside right-of-way line of any public road, except that the regulatory authority may permit such roads to be relocated, if the interests of the public and the landowners affected thereby will be protected;

(4) no lake, river, stream, creek, or watercourse will be moved, interrupted, or destroyed during the mining or stabilization process; and that no mining or stabilization activities will be conducted within one hundred feet of any lake, river, stream, or creek during the mining and stabilization process, except that reaffectation and stabilization activities may be permitted within one hundred feet of such bodies of water where it will help alleviate an existing water pollution problem or restore a previously mined but unstabilized area;

(5) the operator is not presently ineligible to obtain a permit to conduct any coal mining operation under the law of any Federal program authorized by this Act;

(6) mining operations would not adversely affect nearby lands and waters to which the public enjoys use and access, or the mining of any area of land within one mile of publicly owned lands or parks or places located in the National Register of Historic Sites;

(7) the permit application does not include areas of land affected that are noncontiguous;

(8) the application on its face is complete, accurate, and contains no false information;

(9) no coal seam which serves as an aquifer will be mined or otherwise disturbed; and

(10) the area or region in which the mining is to take place has an annual average precipitation of at least ten inches.

(f) The applicant shall file with his permit application a schedule listing any and all violations of this Act and any law, rule, or regulation of the United States or of any department or agency in the United States pertaining to air, or water environmental protection incurred by the applicant in connection with any coal surface mining operation during the one-year period prior to the date of application. The schedule shall also indicate the final resolution of any notice of violation. Where the schedule or other information available to the Administrator indicates that any coal surface mining operation owned or controlled by the applicant is currently in violation of this Act or such other laws referred to in this subsection, the permit shall not be issued until the applicant submits proof that such violation has been corrected or is in the process of being corrected to the satisfaction of the regulatory authority, department, or agency which has jurisdiction over such violation.

APPLICATION REQUIREMENTS

SEC. 103. (a) Each application for a mining and stabilization permit shall be accompanied by a fee as determined by the Administrator. Such fee shall be based as nearly as possible upon the actual or anticipated cost of reviewing, administering, and enforcing such permit and shall be in addition to the fee required for the Coal Mine Lands Stabilization Fund.

(b) The permit application shall be submitted in a manner satisfactory to the regulatory authority and shall contain, among other things—

(1) the names and addresses of the permit applicant (if the applicant is a subsidiary corporation, the name and address of the parent corporation must be included); every legal owner of the property (surface and mineral) to be mined; the holders of any leasehold or other equitable interest in the property; any purchase of the property under a real estate contract; the operator if he is a person different from the applicant; and, if any of these are business entities other than a single proprietor, the names, addresses of the principals, officers, and resident agent;

(2) the names and addresses of every officer, partner, director, or person performing a function similar to a director, of the applicant, together with the name and address of any person owning, of record or beneficially, either alone or with associates, 10 per centum or more of any class of stock of the applicant and a list of all names under which the applicant, partner, or principal shareholder previously operated a surface mining operation within the United States or its territories and possessions;

(3) a description of the type and method of coal mining operation that exists or is proposed, the engineering techniques proposed or used, and the equipment used or proposed to be used;

(4) the anticipated or actual starting and termination dates of each phase of the mining operation and number of acres of land to be affected;

(5) the written consent of the owner of the surface of the land and any person holding an interest in such surface including but not limited to the lessees of said surface upon which the applicant proposes to engage in, or is engaged in, coal surface mining;

(6) the names and addesses of the owners of all surface areas abutting on the permit area;

(7) a statement of any current or previous mining permits in the United States held by the applicant and the permit identification;

(8) a statement of whether the applicant, any subsidiary, affiliate, or persons controlled by or under common control with the applicant, has ever held a Federal or State mining permit which has been suspended or revoked or has ever had a mining bond or similar security deposited in lieu of bond forfeited and a brief explanation of the facts involved in each case;

(9) an accurate map or plan to an appropriate scale clearly showing the land to be affected, prepared by or under the direction and certified by a registered professional engineer, or registered land surveyor and a professional geologist for the requirements relating to subsurface information. Such map or plan shall among other things show all the boundaries of the land to be affected, its surrounding drainage area, the location and names, where known, of all roads, railroads, rights-of-way, utility lines, oil wells, gas wells, water wells, lakes, streams, rivers, creeks, springs, and other surface watercourses, the names and boundary lines of the present owners of all surface areas abuting on the permit area and the location of all buildings on and within such abutting surface areas, and the purpose for which each building is used;

(10) typical cross section maps or plans of the land to be affected showing pertinent elevations, including the nature and thickness of the overburden, the nature and thickness of any mineral seam above the mineral seam to be mined, the nature of the stratum immediately beneath the mineral seam to be mined, the location of the aquifers or underground water, the estimated elevation of the water table, the location of any underground mines, and a profile of the anticipated final surface contour that will be achieved pursuant to the operator's approved stabilization plan. The information pertaining to the mineral seam required by this paragraph shall be kept confidential and not made a matter of public record, except that if such information becomes relevant to the parties to a hearing on the grant or denial of a permit or the forfeiture or release of part or all of a bond, such information may be disclosed to such interested parties under appropriate protective provisions;

(11) a proposed mining map or plan of the area of land to be affected on an appropriate scale, prepared under the direction and certified by any registered professional engineer or registered land surveyor, clearly showing the location of all rivers, streams, creeks, lakes, ponds, water impoundments, wells, springs, and any other watercourses,

all mineral croplines, existing deep and surface mining limits, the actual area to be mined, the location of pits, if any, that may be left in accordance with the operators approved stabilization plan, spoil areas, waste or refuse areas, topsoil preservation areas, test and drill holes and their surface elevations, barriers, if any, to control subsurface water movement, strike and dip of the coal to be mined within the area of land to be affected, the synclines and anticlines of the coal to be mined, the contours of the surface at sufficient intervals of elevation to accurately depict the contour of the terrain, location of all buildings having private sources of water supply within one thousand feet of the area to be affected, the location of all waste water impoundments, any settling or water treatment facilities, constructed or natural drainways, and the location of any discharges to any surface body of water on the area of land to be affected or adjacent thereto. The maps required under paragraphs (8) and (10) of this subsection may be consolidated;

(12) a copy of the applicant's advertisement to be published pursuant to section 108(a), which includes the ownership, a listing of all persons holding any interest in the surface or mineral estate including but not limited to lessees of said surface or mineral estate, a description of the exact location and boundaries of the proposed site sufficient so that the proposed operation is raidily locatable by local residents, and the location of where the application is available for public inspection;

(13) the name of the watershed and location of all known surface and underground waterways into which surface waters may or will be discharged;

(14) a determination of the hydrologic consequences of the mining and stabilization operations, both on and off the mine site, with respect to the hydrologic regime, quantity and quality of water in surface and ground water systems including the dissolved and suspended solids under seasonal flow conditions and the collection of sufficient data for the mine site and surrounding area so that an assessment can be made of the probable cumulative impacts of all anticipated mining in the area upon the hydrology of the area and particularly upon water availability;

(15) a complete and verifiable list of all deeds, leases, options, or other instruments granting to the applicant or his agents rights to or in the land or minerals to be affected by the proposed permit;

(16) when requested by the Administrator a statement of all lands, interests in lands, or options on such lands held by the applicant or pending bids on interests in lands by the applicant, which lands are contiguous to the land to be affected, and any information required by this subsection which is not on public file pursuant to appropriate laws shall be held in confidence by the Administrator;

(17) a statement of the result of test borings or core samplings from the land to be effected, including where appropriate, the surface elevation and logs of the drill holes so that the strike and dip of the coal seams may be determined, the nature and depth of the various strata of overburden, the location of subsurface water, if encountered, and its quality, the thickness of the coal seam found, an analysis of the chemical properties of such coal; the sulfur content of any coal seam and a chemical analysis of potentially acid or toxic forming sections of the overburden, and a chemical analysis of the stratum lying immediately underneath the coal to be mined; and

(18) such other information as the regulatory authority may require.

The collection and analyses of all information required under paragraph (17) of this subsection shall be conducted by a laboratory which is approved by the Administrator. The Administrator shall establish rules to preserve the integrity of the sampling. Information from test borings and core samplings required by this paragraph shall be made available to interested parties and that which pertains only to the quantitative and qualitative analysis of the coal seams (except the information regarding such mineral or elemental content which is potentially toxic in the environment) shall be kept confidential and not made a matter of public record. If such coal seam information becomes relevant to the parties to a hearing on the grant or denial of a permit or the forfeiture or release of part or all of a bond, such information shall be disclosed to such interested parties under protective provisions defined by the regulatory authority.

(c) The mining and stabilization plan which each applicant for a permit shall be required to submit with a permit application, consistent with the performance criteria provided for in this Act, shall include, at least—

(1) the identification of the entire area to be mined and affected over the estimated life of the mining operation and the size, sequence, and timing of the subareas for which it is anticipated that individual permits for mining will be sought;

(2) a statement describing the full range of uses to which the land was put and the predominant uses of the area immediately surrounding the area of land to be affected prior to the commencement of any mining, and a dsecription of the use or uses proposed to be made of the area of land to be affected following stabilization;

(3) a detailed description of the manner in which mining operations will be conducted and of the actions taken or planned to prevent adverse environmental effects during the life of the mining and stabilization operation;

(4) a detailed description of the measures to be taken during the mining and stabilization process to assure the protection of the quantity and quality of surface and ground water systems, both on- and off-site from adverse effects of the mining and stabilization process, and the rights of present users to such water;

(5) a detailed description of the stabilization activities that will be taken to return the mined area to a condition consistent with the applicant's proposed postmining land use and in accordance with provisions of this Act (including, but not liimted to preventing polluting discharges, seepages, mine and refuse bank fires, and other conditions that present an adverse effect on the health or safety of the public on the permitted site that resulted from previous mining operations);

(6) a detailed description of how the proposed postmining land use is to be achieved and the necessary public or private support activities which may be needed to achieve the proposed land use;

(7) a detailed time schedule, including interim completion dates, for key stages of the surface coal mining and stabilization plan;

(8) a description of the actions planned to insure compliance with the environmental performance standards set forth in this Act and supplemented by regulation by the Administrator; and

(9) such other requirements as the regulatory authority shall prescribe by regulation.

(d) each applicant for a surface mining and stabilization permit shall file a copy of his application for public inspection with the Recorder at the courthouse of the county or an appropriate official approved by the regulatory authority where the mining is proposed to occur, except for that information pertaining to the coal seam itself.

(e) Each applicant for a permit shall be required to submit to the regulatory authority as part of the permit application a certificate issued by an insurance company authorized to do business in the United States certifying that the applicant has a public liability insurance policy in force for the mining and stabilization operations for which such permit is sought, or evidence that the applicant has satisfied other State or Federal self-insurance requirements. Such policy shall cover the mined area and provide for both on- and off-site personal injury and property damage protection as a result of mining and stabilization operations and entitled to compensation under the applicable provisions of Federal or State law but in any event shall not be less than $100,000, or for such higher amounts as the regulatory authority deems necessary in light of potentional risk and magnitude of possible off-site damages. Such policy shall be for the term of the permit and any renewal, including the length of any and all stabilization operations required by this Act.

EFFECT ON STATE LAW

SEC. 104. Where any provision of any State law or regulation in effect upon the date of enactment of this Act or which may become effective thereafter, provides more stringent environmental controls and regulations of surface mining and stabilization operations than do the provisions of this Act or any regulation issued pursuant thereto, such provision of State law or regulation shall not be constructed to be inconsistent with this Act.

GENERAL ENVIRONMENTAL PROTECTION PERFORMANCE STANDARDS

SEC. 105. (a) Any permit issued pursuant to this Act to conduct surface coal mining operations shall require that such operations will meet all applicable performance standards established by this Act and such other conditions as the Administrator shall require by regulation or upon review of the permit application.

(b) The operator of all surface coal mining and stabilization operations shall as a minimum—

(1) restore the land affected to a condition at least fully capable of supporting the uses which it was capable of supporting prior to any mining, or higher or better uses of which there is a reasonable likelihood, so long as such use or uses do not present any actual or probable adverse effect on public health or safety or pose any actual or possible threat of water diminution or pollution, and the permit applicants' declared proposed land use following stabilization is not deemed to be impractical or unreasonable, inconsistent with applicable land use policies and plans, involves unreasonable delay in implementation, or is violative of Federal, State, or local law;

(2) reduce the land disturbed incident to surface mining by limiting the amount of surface excavated at any one time during mining and combining the process of stabilization with the process of mining to keep stabilization operations current, and to complete such stabilization in any separate distinguishable portion of the mined area, as promptly as possible, but not later than the time specified in a stabilization schedule which shalll be attached to the permit;

(3) remove the topsoil from the land in a separate layer, segregate it in a separate pile from the subsoil, and when the topsoil is not replaced on a backfill area within a time short enough to avoid deterioration of the topsoil, maintain a successful cover by quick growing plant or other means thereafter so that the topsoil is preserved from wind and water erosion, remains free of any acid or toxic material, and is in a usable condition for sustaining vegetation when restored during stabilization, except if topsoil is not capable of sustaining vegetation, or if a separable subsoil can be shown to be more suitable for vegetation requirements, then the operator shall remove, segregate, and preserve in a like manner that subsoil which is best able to support vegetation;

(4) remove and segregate spoil materials and protect them from wind and water erosion until returned during backfilling;

(5) segregate toxic materials and those acidic, alkaline and saline materials which are toxic when uncovered during excavation or created in connection with the mining operation and promptly bury, cover, and compact and isolate such materials during the mining process to prevent contact with ground water systems and to prevent leaching and pollution of surface or subsurface waters;

(6) with respect to all surface coal mining operations backfill, compact (where advisable to insure stability or to prevent leaching of toxic materials), and grade in order to restore the approximate original contour of the land with all highwalls, spoil piles and depressions eliminated; except that in surface coal mining which is carried out at the same location over a substantial period of time, where the operation follows the coal deposit vertically and the thickness of the coal deposit relative to the volume of the overburden is large and where the operator demonstrates that the overburden and other spoil and waste materials at a particular point in the permit area or otherwise available from the entire permit area is insufficient, giving due consideration to volumetric expansion, to restore the approximate original contour, the operator, at a minimum, shall backfill, grade, and compact (where advisable) using all available overburden and other spoil and waste materials to attain the lowest practicable grade but not more than 10 degrees and to bury, compact, and isolate all acid-forming and other toxic materials, in order to achieve an ecologically sound land use compatible with the surrounding region;

(7) refrain from the creation of any permanent impoundments of water in the permit area;

(8) refrain from the construction of roads or other access ways within a streambed or drainage channel or in such proximity to such proximity to such channel so as to alter the normal flow of water;

(9) restore the topsoil or the best available subsoil which has been segregated and preserved;

(10) permanently establish on the regraded areas, and all other lands affected, a diverse and permanent vegetative cover native to the area of land to be affected and capable of self-regeneration and plant succession at least equal in extent of cover to the natural vegetation of the area; except, that introduced species may be used in the revegetation process where desirable and necessary to achieve the approved postmining land use plan;

(11) assume the responsibility for successful revegetation for a period of five full years after the last year of augmented seeding, fertilizing, irrigation, or other work in order to assure a permanent, self-regenerative, effective, and diverse vegetative cover suitable to the area, except that:

(A) in those areas or regions of the country where the annual average precipitation is between sixteen and twenty-six inches, the operator's assumption of responsibility and liability will extend for a period of ten full years after the last year of augmented seeding, fertilizing, irrigation, or other work;

(B) in those areas or regions of the country where the annual average precipitation is between eleven and sixteen inches, the operator's assumption of responsibility and liability will extend for a period of fifteen full years after the last year of augmented seeding, fertilizing, irrigation, or other work;

(C) in those areas or regions of the country where the annual average precipitation is ten inches or less, the operator's assumption of responsibility and liability will extend for a period of twenty full years after the last year of augmented seeding, fertilizing, irrigation, or other work;

(12) maintain the hydrologic balance at the minesite and in associated offsite areas and maintain the quality and quantity of water in surface and ground water systems both during and after surface coal mining operations and during stabilization by—

(A) preventing acid or other toxic mine drainage;

(B) casing, sealing, or otherwise managing boreholes, shafts, and wells to prevent acid or other toxic drainage to ground and surface waters;

(C) conducting surface mining operations so as to prevent additional contributions of suspended or dissolved solids to streamflow or runoff outside the permit area above natural levels as measured prior to any mining, and avoid channel deepening or enlargement in operations requiring discharge of water from mines;

(D) removing all siltation structures from drainways after disturbed areas are revegetated and stabilized and preventing any discharge of silt from such structures during or after removal;

(E) restoring recharge capacity of the aquifer at the minesites to approximate premining conditions;

(F) preserving throughout the mining and stabilization process alluvial valley floors and stream channels; and

(G) where aquifers are disturbed during mining operations, place a layer of gravel, sufficient to serve as a carrier for ground water, directly above the first impermeable strata underlying the coal seam mined; and

(H) such other actions as the regulatory authority may prescribe;

(13) prevent any offsite damages that may result from such mining operations;

(14) with respect to disposal of coal processing wastes or other liquid or solid wastes, refrain from the use of impoundments, stabilize all waste piles in designated areas through construction and compacted layers with incombustible and impervious materials, and assure the final contour of the waste pile will be compatible with natural surroundings and that the site can and will be stabilized and revegetated according to the provisions of this Act; and drain within six months after the date of enactment all waste impoundments existing at the date of enactment insuring that pollution to surface or ground water systems is prevented during the draining process;

(15) with respect to the use of explosives—

(A) provide advance written notice to local governments and residents who would be affected by the use of such explosives of the blasting times and the posting of such times at the entrances to the permit area, and maintain for a period of at least three years a log of the magnitudes and times of blasts;

(B) refrain from blasting—

(i) where the course or channel of any surface or subsurface stream will be changed as a probable result of the blast; or

(ii) where the banks of a stream will be ruptured permitting water to enter the strip mining pit; or

(iii) where vibration or concussion will be felt beyond the licensed area unless prior written consent of the property owner or owners (where such vibrations or concussions will be felt) has been obtained; or

(iv) where the stability of the roof strata of an operating underground mine or the watercourse entering a mine will be adversely affected as a probable result of the blast; or

(v) where the safety of the public or private property or natural formations of more than local interest are endangered.

(C) before an explosion is to be set off, give sufficient warning so that any person approaching the area shall be given ample time to retreat a safe distance. Any public highway or entrance to the operation shall be barricaded and guarded by the operator if the highway or entrance is located within one thousand feet of any point of the blasting site; and

(D) before an explosion is to be set off within one thousand feet of occupied buildings or dwellings, notify any person within the area in a manner approved by the Administrator within twenty-four hours prior to the blast. The Administrator shall designate the time period during which such blastings may be done. Any blasting shall be done between the hours of sunrise and sunset;

(16) refrain from mining within five hundred feet or more of active or abandoned underground mine openings in order to prevent breakthroughs;

(17) operate any auger only to the dip of the resource; all auger holes being filled to a depth of a minimum of three times the diameter with an impervious and noncombustible material;

(18) construct access roads, haulroads, or haulageways with appropriate limits applied to grade, width, surface materials, spacing, and size of culverts in order to control drainage and prevent erosion within and outside permit area, and upon the completion of mining either stabilize such roads by regrading and revegetation or assure their maintenance so as to prevent erosion and siltation of streams and adjacent lands; and

(19) with respect to areas of sloping terrain, refrain from placing any spoil, debris, soil, waste materials, or abandoned or disabled mine equipment on the natural or other downslope below the bench or cut created to expose the coal seam.

For the purposes of this subsection, the term "sloping terrain" is any slope between ten and twenty degrees or such lesser slope as may be defined by the Administrator after consideration of soil, climate, and other characteristics of a region or State.

(c) The Administrator may impose such additional requirements as he determines to be necessary.

SPECIFIC PERFORMANCE STANDARDS FOR UNDERGROUND MINING OPERATIONS

SEC. 106. (a) Each permit issued pursuant to this Act relating to underground coal mining shall, in addition to the requirements of section 105(b) of this Act, require the operator to as a minimum—

(1) with respect to underground mines opened after the enactment of this Act and to the extent physically, and technologically possible, incorporate practices of backfilling all mine wastes and coal processing plant tailings in mine voids or other equally effective disposal methods;

(2) provide for adequate support for the ground surface by assuring appropriate permanent underground mine support in order to prevent subsidence, maximize mine stability, and the value and use of such surface lands, except in those instances where the mining technology used requires planned subsidence in a predictable and controlled manner;

(3) seal all portals, entryways, drifts, shafts, or other openings between the surface and underground mine workings when no longer needed for the conduct of the mining operations;

(4) with respect to surface disposal of mine wastes, coal processing wastes, and other wastes in areas other than the mine workings or excavations, stabilize all waste piles created by the permittee from current operations through construction in compacted layers with incombustible and impervious materials and assure that the final contour of the waste accumulation will be compatible with natural surroundings and that the site is stabilized and revegetated according to the provisions of this section;

(5) refrain from the use of impoundments

in the disposal of mine wastes, coal processing wastes, and other wastes, drain within six months of the date of enactment all waste impoundments existing at the date of enactment insuring that pollution to surface or ground water is prevented during draining process, and stabilize remaining waste piles in accordance with the requirements of paragraph (4);

(6) establish on regraded areas and all other lands affected, a diverse and permanent vegetative cover capable of self-regeneration and plant succession and at least equal in extent of cover to the natural vegetation of the area;

(7) prevent off-site damages which may result from such mining operations; and

(8) prevent the discharge of water-borne pollutants both during and after mining.

(c) In order to protect the stability of the land, the Administrator shall prohibit underground coal mining under urbanized areas, cities, towns, and communities and adjacent to industrial or commercial buildings, major impoundments, or permanent streams.

(d) All operators of underground coal mines, both during and after mining, shall eliminate fire hazards and otherwise eliminate conditions which constitute a hazard to health and safety of the public.

PROMULGATION OF REGULATIONS

SEC. 107. (a) Not later than sixty days immediately following the date of enactment of this Act, the Administrator shall promulgate, in accordance with section 533 of title 5, United States Code, regulations for the administration of permits issued under this Act.

(b) All regulations except those referred to in subsection (a) of this section shall not be promulgated by the Administrator until he has—

(1) published proposed regulations in the Federal Register and afforded interested persons and State and local governments a period of not less than forty-five days after such publication to submit written comments thereon;

(2) held at least two regional public hearings on the proposed regulations.

The date, time, and place of any hearing held on the proposed regulations shall be set out in the publication of the proposed regulations. The Administrator shall consider all comments and relevant data presented at such hearing before final promulgation and publication of the regulations.

PUBLIC NOTICE AND PUBLIC HEARINGS

SEC. 108. (a) At the time of submission of an application for a surface mining and stabilization permit, or revision or renewal of an existing permit, pursuant to the provisions of this Act the applicant shall submit to the Administrator a copy of his advertisement of the ownership, precise location, and boundaries of the land to be affected. At the time of submission such advertisement shall be placed in a local newspaper of general circulation in the locality of the proposed surface mine at least once a week for four consecutive weeks. Within seven days after the applicant has submitted his application, he shall also submit copies of letters which he has sent to various local governmental bodies, planning agencies, and sewage and water treatment authorities, or water companies in the locality in which the proposed surface mining will take place, notifying them of his intention to surface mine a particularly described tract of land and indicating the application's permit number and where a copy of the proposed mining and stabilization plan may be inspected. These local bodies, agencies, authorities, or companies have obligation to submit written comments within thirty days on the mining applications with respect to the effect of the proposed operation on the environment which are within their area of responsibility. Such comments shall be made available to the public at the same locations as are the mining applications.

(b) Any person or the officer or head of any Federal, State, or local governmental agency or authority shall have the right to file written objections to the proposed surface mining and stabilization operation with the regulatory authority within thirty days after the last publication of the above notice. If written objections are filed and a hearing requested, the Administrator shall then hold a public hearing in the locality of the proposed mining within a reasonable time of the receipt of such objections. The date, time, and location of such public hearing shall be advertised by the Administrator in a newspaper of general circulation in the locality at least once a week for three consecutive weeks prior to the scheduled hearing date. The Administrator may arrange with the applicant upon request by any party to the administrative proceeding access to the proposed mining area for the purpose of gathering information relevant to the proceeding. At this public hearing, the applicant for a permit shall have the burden of establishing that his application is in compliance with the applicable State and Federal laws. Not less than ten days prior to any proposed hearing, the Administrator shall respond to the written objections in writing. Such response shall include the Administrator's preliminary proposals as to the terms and conditions, and amount of bond of a possible permit for the area in question and answers to material factual questions presented in the written objections. The Administrator's responsibility under this subsection shall in any event be to make publicly available its estimate as to any other conditions of mining or stabilization which may be required or contained in the preliminary proposal. In the event all parties requesting the hearing stipulate agreement prior to the requested hearings, and withdraw their request, such hearings need not to be held.

(c) For the purpose of such hearing, the Administrator may administer oaths, subpena witnesses, or written or printed materials, compel attendance of the witnesses, or production of the materials, and take evidence including but not limited to site inspections of the land to be affected and other surface mining operations carried on by the applicant in the general vicinity of the proposed operation. A verbatim transcript and complete record of each public hearing shall be ordered by the Administrator.

DECISIONS OF REGULATORY AUTHORITY AND APPEALS

SEC. 109. (a) If a public hearing has been held pursuant to section 108(b) of this Act, the Administrator shall issue and furnish the applicant for a permit and persons who are parties to the administrative proceedings with the written finding of the Administrator, granting or denying the permit in whole or in part and stating the reasons therefor, within thirty days of said hearings.

(b) If there has been no public hearing held pursuant to section 108(b) of this Act, the Administrator shall notify the applicant for a permit within a reasonable time, taking into account the time needed for proper investigation of the site, the complexity of the permit application and whether or not written objection to the application has been filed, whether the application has been approved or disapproved. If the application is approved, the permit shall be issued. If the application is disapproved, specific reasons therefor must be set forth in the notification. Within thirty days after the applicant is notified that the permit or any portion thereof has been denied, the applicant may request a hearing on the reasons for the said disapproval. The Administrator shall hold a hearing within thirty days of such request and provide notification to all interested parties at the time that the applicant is so notified. Within thirty days after the hearing the Administrator shall issue and furnish the applicant, and all persons who participated in the hearing, with the written decision of the Administrator granting or denying the permit in whole or in part and stating the reasons therefor.

(c) Any applicant or any person who is aggrieved by the decision of the administrator or if the Administrator fails to act within a reasonable period of time, shall have the right of appeal for review by a court of competent jurisdiction in accordancce with State or Federal law.

POSTING OF BOND

SEC. 110. (a) After a surface mining and stabilization permit application has been approved but before such a permit is issued, the applicant shall file with the Administrator on a form prescribed and furnished by the Administrator a bond for performance payable to the United States and conditioned that the operator shall faithfully perform all the applicable requirements under this Act. The bond shall cover that area of land within the permit area upon which the operator will initiate and conduct surface mining and stabilization operations. As succeeding increments of surface mining and stabilization operations are to be initiated and conducted within the permit area, the permittee shall file with the Administrator an additional bond or bonds to cover such increments in accordance with this section. The amount of the bond required for each bonded area shall depend upon the stabilization requirements of the approved permit and shall be determined by the Administrator. The amount of the bond shall be sufficient to assure the completion of the stabilization plan if the work had to be performed by a third party in the event of forfeiture; in no case shall the bond be less than $10,000. Liability under the bond shall be for the duration of the surface mining and stabilization operation and for a period coincident with operator's responsibility for vegetation requirements in section 105(b)(11). The bond shall be executed by the operator and a corporate surety licensed to do business in the State where such operation is located, except that the operator may elect to deposit cash, negotiable bonds of the United States Government or such State, or negotiable certificates of deposit of any bank organized or transacting business in the United States. The cash deposit or market value of such securities shall be equal to or greater than the amount of the bond required for the bonded area.

(b) Cash or securities so deposited shall be deposited upon the same terms as the terms upon which surety bonds may be deposited. If one or more negotiable certificates of deposit are deposited with the Administrator in lieu of the surety bond, he shall require the bank which issued any certificate to pledge securities of the aggregate market value to the amount of such certificate or certificates, which is in excess of the amount insured by the Federal Deposit Insurance Corporation. Such securities shall be security for the repayment of such negotiable certificate of deposit.

(c) Upon the receipt of the deposit of cash or securities, the regulatory authority shall immediately place the deposit with the Secretary of the Treasury who shall receive and hold the deposit in safekeeping in the name of the United States in trust for the purpose for which the deposit was made. The operator making the deposit may from time to time demand and receive from the Secretary of the Treasury on written order of the Administrator the whole of any portion of the deposit if other acceptable securities of at least the same value are deposited in lieu thereof. The operator may demand of the Secretary of the Treasury and receive the interest and income from the securities as

they become due and payable. When deposited securities mature or are called, the operator may request that the Secretary of the Treasury or the aforesaid State authority convert the securities into other securities acceptable to the operator, and the Secretary of the Treasury or the aforesaid State authority shall so do.

(d) The amount of the bond or deposit required shall be increased or decreased by the Administrator from time to time as affected land acreages are changed or where the cost of future stabilization increases or decreases.

BOND RELEASE PROCEDURES

SEC. 11. (a) When the operator has completed successfully all surface mining and stabilization activities, but not before the expiration of the period specified for operator responsibility in section 105(b)(11), he may file a request for release of the bond or collateral for the applicable permit area. The request shall specifically include—

(1) the location of the land affected, the number of acres backfilled and regraded, and the approximate dates of the stabilization work;

(2) the permit number;

(3) the amount of the bond;

(4) a detailed description of the type of stabilization activities performed; and

(5) a detailed description of the results achieved as they relate to the operator's approved stabilization plan.

(b) Upon receipt of the notification and request, the Administrator shall, within one hundred days thereafter, make an inspection and evaluation of the stabilization work involved. If the Administrator finds that the stabilization meets the requirements under this Act, he shall so notify the surety company, the operator, and the Secretary of the Treasury and release the bond. The Secretary of the Treasury shall then return to the operator the amount of the cash or securities constituting the bond so released. If the Administrator does not approve of the stabilization performed by the operator, he shall so notify the operator by registered mail within a reasonable time after the request. The notice shall state the reasons for unacceptability and shall recommend actions to remedy the failure.

(c) With any application for bond release filed with the Administrator, the operator shall submit a copy of the first advertisement placed at least once a week for three consecutive weeks in a newspaper of general circulation in the locality of the surface mining operation. Such advertisement shall be considered part of any bond release application and shall contain a notification of the precise location of the land affected, the number of acres, the permit number and the date approved, the amount of the bond filed and the portion sought to be released, and the type of stabilization work performed. In addition, as part of any bond release application, the applicant shall also submit copies of letters which he has sent to various local governmental bodies, planning agencies, and sewage and water treatment authorities, or water companies in the locality in which the surface mining and stabilization activities took place, notifying them of his intention to seek release from the bond.

(d) Any person or the officer or head of any Federal, State, or local governmental agency shall have the right to file written objections to the proposed release from bond to the Administrator within thirty days after the last publication of the above notice. If written objections are filed, and a hearing requested, the Administrator shall inform all the interested parties, of the time and place of the hearing, and hold a public hearing in the locality of the surface mining operation proposed for bond release within forty-five days of the request for such hearing. The date, time, and location of such public hearings shall be advertised by the Administrator in a newspaper of general circulation in the locality once a week for three consecutive weeks.

(f) For the purpose of such hearing the Administrator shall have the authority and is hereby empowered to administer oaths, subpena witnesses, or written or printed materials, compel the attendance of witnesses, or production of the materials, and take evidence including but not limited to inspections of the land affected and other surface mining operations carried on by the applicant in the general vicinity. A verbatim transcript and a complete record of each public hearing shall be ordered by the Administrator.

(g) The Administrator shall make his decision on the bond release request not more than sixty days after the record of the hearing is transcribed.

(h) Any applicant or person who has participated in the administrative proceedings as an objector and who is aggrieved by the decision of the Administrator or if the Administrator fails to act within a reasonable period of time, shall have the right of appeal to an appropriate United States district court.

SUSPENSION AND REVOCATION OF PERMITS

SEC. 112. (a) Once granted, a permit may not be suspended or revoked unless the Administrator gives the permittee prior notice of violation of the provisions of the permit and not more than ten days within which to take corrective action, and the Administrator determines after a public hearing, if requested by the permittee, that the permittee remains in violation; except that if the continuation of any mining operation adversely affects the public health or safety, threatens damage to public and private property, endangers the quality and quantity of a public or private water supply, or poses other significant harm to land, air, or water resources, the permit, or such portion of the permit related to the offending activity, shall be suspended subject to subsequent determination, after a public hearing, if requested by the permittee, whether the permittee has violated the provisions of the permit.

(b) Following the hearing or any corrective action on the part of the permittee, the regulatory authority must issue and furnish the permittee a written decision, independently verified by the regulatory authority, either affirming or rescinding the suspension and stating the reasons therefor. The permittee shall have the right to appeal such decision of the regulatory authority to an appropriate United States district court.

(c) If the Administrator revokes the permit of the operator, the operator shall immediately cease any and all surface coal mining operations on the permit areas and the Administrator shall declare as forfeited the performance of surety bonds for the operation.

INSPECTIONS AND MONITORING

SEC. 113. (a) For the purpose of determining whether any person is in violation of any requirement of this Act—

(1) the Administrator shall require any permittee to (A) establish and maintain appropriate records, (B) make monthly reports to the Administrator, (C) install, use, and maintain any necessary monitoring equipment or methods, (D) evaluate results in accordance with such methods, at such locations, intervals, and in such manner as the Administrator shall prescribe, and (E) provide such other information relative to surface mining and stabilization operations as the Administrator deems reasonable and necessary;

(2) for those mining and stabilization operations which disturb strata that serve as acquifiers which significantly insure the hydrologic balance or water use either on or off the mining site, the Administrator shall specify those—

(A) monitoring sites to record the quantity and quality of surface drainage above and below the minesite as well as in the potential zone of influence;

(B) monitoring sites to record level, amount, and samples of ground water and aquifers potentially affected by the mining and also directly below the lower most (deepest) coal seam to be mined;

(C) records of well logs and borehole data to be maintained; and

(D) monitoring sites to record precipitation.

The monitoring data collection, and analysis required by this section shall be conducted according to standards and procedures set forth by the Administrator in order to assure their reliability and validity; and

(3) the authorized representatives of the Administrator, without advance notice and upon presentation of appropriate credentials (A) shall have the right of entry to, upon, or through any surface mining and stabilization operations or any premises in which any records required to be maintained under paragraph (1) of this subsection are located; and (B) may at reasonable times, and without delay, have access to and copy any records, inspect any monitoring equipment or method of operation required under this Act.

(b) The inspections by the Administrator shall (1) occur on an irregular basis averaging not less than one inspection per month for the surface mining and stabilization operations for coal covered by each permit; (2) occur without prior notice to the permittee or his agents or employees; and (3) include the filing of inspection reports adequate to enforce the requirements of and to carry out the terms and purposes of this Act and the Administrator shall make copies of such inspection reports immediately and freely available to the public at a central location in the pertinent geographic area of mining. The Administrator shall establish a system of continual rotation of inspectors so that the same inspector does not consistently visit the same operations.

(c) Notices of pending applications and location maps shall be filed with appropriate officials in each county or other approriate subdivision of the State in which surface coal mining and stabilization operations under such permits will be conducted and shall be available for public inspection at all reasonable times.

(d) Each permittee shall conspicuously maintain at the entrances to the surface mining and stabilization operations a clearly visible sign which sets forth the name, business address, and phone number of the permittee and the permit number of the surface mining and stabilization operations.

(e) Each inspector, upon detection of each violation of any requirement of this Act, shall forthwith inform the operator in writing, and shall report in writing any such violation to the Administrator.

(f) Copies of any records, reports, inspection materials, or information obtained under this title by the Administrator shall be made immediately and freely available to the public at central and sufficient locations in the county, multicounty, and State areas of mining so that they are conveniently available to residents in the areas of mining as well as in Washington, District of Columbia.

PENALTIES

SEC. 114. (a) At the request of the Administrator, the Attorney General may institute a civil action in a district court of the United States for a restraining order or injunction or other appropriate remedy to enforce the purposes and the provisions of this Act and the regulations adopted hereunder.

(b) Any person who violates any permit condition or order issued under any provision of this Act shall be assessed a civil penalty

by the Administrator. Such penalty shall be applied in the same manner, and under the same procedure except as modified herein, as those penalties under section 109(a) of the Federal Coal Mine Health and Safety Act of 1969 (30 U.S.C. 819(a)). Each occurrence of a violation shall constitute a separate offense. The Administrator shall issue regulations in accordance with section 553 of title 5, United States Code, within one hundred and eighty days after enactment of this Act, prescribing procedures for such assessments. The Federal Claims Collection Act of 1966 (31 U.S.C. 951 et seq.) shall apply to such assessments.

(c) Any person (1) who knowingly violates any provision of this Act or any regulation, permit condition, or order issued under this Act, or (2) who makes any false statement, representation or certification in any application, record, report, plan, or other document filed or required to be maintained under this Act, or (3) who falsifies, tampers with, or renders inaccurate any monitoring device or method required to be maintained under this Act, shall upon conviction be punished. The penalties provided in section 109(d) of the Federal Coal Mine Health and Safety Act (30 U.S.C. 819) shall apply to this section and in the discretion of the court, one-third of said fine shall be paid to the person or persons giving information which shall lead to conviction.

(d) Any person aggrieved or adversely affected by any suspension ordered by an inspector, or of any order, rule, or regulation of the Administrator, may appeal to the Administrator for an order vacating or modifying the order, rule, or regulations, in the same manner, following the same procedure, as is provided for appeal to the Administrator under section 105 of the Federal Coal Mine Health and Safety Act of 1969 (30 U.S.C. 815).

(e) In addition to any other remedy at law or in equity under the provisions of this Act, the Attorney General of the United States may apply to an appropriate United States district court for relief by injunction to enforce compliance with or restrain violations of any provisions of this Act or any rule, regulation, or order made pursuant thereto.

(f) The Administrator is authorized to commence a civil action for appropriate relief, including a permanent or temporary injunction, for any violation for which he is authorized to issue a compliance order under section 113. Any action under this subsection may be brought in the district court of the United States for the district in which the defendant is located or resides or is doing business, and such court shall have jurisdiction to restrain such violation and to require compliance. Notice of the commencement of such action shall be given immediately to the appropriate State.

(g) Wherever a corporation or other entity violates any provision of this Act, or any permit condition required by this Act, any director, officer, or agent of such corporation or entity who authorized, ordered, or carried out such violation shall be subject to the same fines or imprisonment as provided for under subsection (d) of this section.

(h) The remedies described in this section shall be concurrent and cumulative and the exercise of one does not preclude the exercise of the others. Further, the remedies prescribed in this section shall be in addition to any other remedies afforded by this Act or any other law or regulation.

(i) For the purposes of carrying out his responsibilities under this Act, including the enforcement thereof, the Administrator may by agreement utilize with or without reimbursement the services, personnel, and facilities of any Federal agency.

CITIZEN SUITS

SEC. 115. (a) Any person may commence a civil action on his own behalf—

(1) against any person, including (A) the United States, and (B) any other governmental instrumentality or agency (to the extent permitted by the eleventh amendment to the Constitution), who is alleged to be in violation of this Act, or

(2) against the Administrator and the Chief of the Corps of Engineers where there is alleged a failure of the Administrator or the Chief to perform any act or duty under this Act which is not discretionary with the Administrator or the Chief.

(b) The United States district courts shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce this Act, or to require the Administrator or the Chief to perform such act or duty, as the case may be.

(c) Nothing in this section shall restrict any right which any person (or class of persons) may have under any statute or the common law to seek enforcement of this Act or to seek any other relief, including relief against the Administrator or the Chief or any State agency.

(d) The court, in issuing any final order in any action brought pursuant to this section, may award costs of litigation (including reasonable attorney and expert witness fees) to any party, whenever the court determines such award is appropriate. The court may, if a temporary restraining order or preliminary injunction is sought, require the filing of a bond or equivalent security in accordance with the Federal Rules of Civil Procedure.

(e) Any resident of the United States who is injured in any manner through the failure of any operator to comply with the provisions of this Act, or of any regulation, order, permit, or plan or reclamation issued by the Administrator, may bring an action for damages (including attorney fees) regardless of the amount involved or citizenship of the parties, in an appropriate United States district court.

(f) The Administrator, if not a party in any action under this section, may intervene as a matter of right.

UNDERGROUND MINE PERMIT RENEWAL

SEC. 116. Any operator who holds a permit issued under this title to conduct underground coal mining operations and who wishes to continue such operations beyond the original permit period shall apply to renew his permit within ninety days prior to the anniversary date of the permit issuance. An additional fee of $100 and a new map which outlines the area to be affected shall be filed with such application. Each renewal application shall be in a form prescribed by the Administrator and shall update the information provided in the original permit application. The Administrator shall approve the renewal application in accordance with procedures established by this title for approval of the original application.

AUTHORIZATION

SEC. 117. There are authorized to be appropriated such sums as may be necessary and appropriate to carry out the provisions and purposes of this title.

ANNUAL REPORT

SEC. 118. The Administrator shall submit annually to the President and the Congress a report concerning activities conducted by him, pursuant to this Act. Among other matters, the Administrator shall include in such report recommendations for additional administrative or legislative action as he deems necessary and desirable to accomplish the purposes of this Act.

INSPECTORS

SEC. 119. (a) The Administrator shall determine the number of coal mining inspectors needed to implement this title, and shall appoint them subject to the provisions of title 5 of the United States Code, governing appointments in the competitive service. Each inspector shall be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates. The qualification and training provisions of section 505 of the Federal Coal Mine Health and Safety Act of 1969 shall be applicable here.

(b) A coal mining inspector when making any necessary survey and inspection of coal mining operations under this title shall, at the request of the Secretary of the Interior, administer and enforce all Federal coal mine health and safety laws, rules, and regulations, and shall perform such other functions as prescribed by the Administrator.

FEDERAL PROCUREMENT

SEC. 120. (a) No Federal agency, including any Government corporation, may enter into any contract with any person, who has been convicted of any offense under this Act, for the procurement of minerals or solid fuels, goods, material and services if such contract is to be performed at or by any mine or facility at which the violation which gave rise to such conviction occurred, or if such mine facility is wholly or partly owned, leased, or supervised by such person. The prohibition in the preceding sentence shall continue until the Administrator certifies that the condition giving rise to such conviction has been corrected.

(b) The Administrator shall establish procedures to provide all such agencies with the notification necessary for the purposes of subsection (a) of this section.

(c) In order to implement the purposes and policy of this Act to protect and enhance the quality of the Nation's environment, within one hundred and eighty days after enactment of this Act, each Federal agency, including any Government corporation, authorized to enter into contracts and each Federal agency which is empowered to extend Federal assistance by way of grant, loan, or contract, shall effectuate the purpose and policy of this Act in such contracting or assistance activities by requesting incorporation into the terms of contracts and assistance those environmental protection standards and other requirements of title II of this Act and the sanctions and penalties described in section 216.

(d) No department, agency, or instrumentality of the United States shall purchase or otherwise obtain any coal from any supplier which coal has been extracted by means of surface mining on lands owned by any person who has not given his written consent to the extraction of such coal by surface mining.

RELATION TO OTHER LAWS

SEC. 121. Nothing in this Act shall be construed to conflict with any of the following Acts or with any rule or regulation promulgated thereunder:

(1) The Federal Metal and Nonmetallic Mine Safety Act (30 U.S.C. 721–740).

(2) The Federal Coal Mine Health and Safety Act of 1969 (83 Stat. 742).

(3) The Federal Water Pollution Control Act (33 U.S.C. 1151–1175), the State laws enacted pursuant thereto, or other Federal laws relating to preservation of water quality.

(4) The Clean Air Act (42 U.S.C. 1857).

(5) The Solid Waste Disposal Act (42 U.S.C. 3251).

(6) The Refuse Act of 1899 (33 U.S.C. 407).

(7) The Fish and Wildlife Coordination Act (16 U.S.C. 661–666c).

PROTECTION OF THE SURFACE OWNER

SEC. 122. (a) In those instances in which the surface owner is not the owner of the mineral estate proposed to be mined by surface coal mining operations, the application for a permit shall include the written consent of the owner or owners of the surface

lands involved and any person holding an interest in such surface including but not limited to the lessees of said surface to enter and commence surface mining operations on such land.

(b) All coal deposits, title to which is in the United States, in lands with respect to which the United States is not the surface owner thereof are hereby withdrawn from all forms of surface mining operations and open pit mining, except surface operations incident to an underground coal mine.

(c) In those instances where the mineral estate proposed to be mined by surface coal mining operations and the surface is owned by the Federal Government and the interest in the surface is in the nature of a lease or a permit, the application for a permit shall include the written consent of the permittee or lessee of the surface lands involved to enter and commence surface coal mining operation on such land.

(d) In those instances where the mineral estate proposed to be mined by surface coal mining operations and the surface is owned by the same person and there exists an interest in the surface in the form of a lease or permit, the application for a permit shall include the written consent of the permittee or lessee of the surface lands involved to enter and commence surface coal mining operations on such land.

(e) No owner shall evict a lessee for the purpose of authorizing surface mining without a minimum of one year's notice and without providing just compensation for any improvements of said lessees. If the owner and said lessees are unable to reach agreement on just compensation, the district court in which such surface area is located shall have jurisdiction without regard to the amount in controversy or diversity of citizenship to consider and decide any action filed by the lessees to determine such compensation.

(f) In those instances where it is determined that the surface mining operation removes or disturbs a stratum which serves as a regional aquifer or whose absence would significantly affect the hydrologic balance or use of water either on- and off-site; the written consent of all owners of water rights and landowners (if not the water right owners) anticipated to be affected is required to be submitted as part of the mining application. Further, the operator must provide evidence of additional financial capability and assume responsibility for compensating consumers of water or owners of water rights or providing a substitute water supply, at least equal in quality, quanity, and reliability to such consumers or owners in the event that a degree of hydrologic impact of the operation was underestimated at the time of permit approval.

(g) For the purposes of this section, the term "surface coal mining operation" does not include underground mining for coal.

SEVERABILITY

SEC. 123. If any provision of this Act or the applicability thereof to any person or circumstance is held invalid, the remainder of this Act and the application of such provision to other persons or circumstances shall not be affected thereby.

DEFINITIONS

SEC. 124. For the purpose of this Act—

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

(2) The term "commerce" means trade, traffic, commerce, transportation, transmission, or communication among the several States, or between a State and any other place outside thereof, or between points in the same State which directly or indirectly affect interstate commerce.

(3) The term "surface coal mining operations" includes—

(A) activities conducted on the surface of lands in connection with a surface coal mine or surface operations and impacts incident to an underground coal mine, the products of which enter commerce or the operations of which directly or indirectly affect interstate commerce. Such activities include excavation for the purpose of obtaining coal including such common methods as contour, strip, auger, mountaintop removal, box cut, open pit, and area mining, and in situ distillation or retorting, leaching or other chemical or physical processing, and the cleaning, concentrating, or other processing or preparation, loading of coal for interstate commerce at or near the mine site; except that such activities do not include the extraction of coal incidental to the extraction of other minerals where coal does not exceed 16⅔ per centum of the tonnage of minerals removed for purposes of commercial use or sale; and

(B) the areas upon which such activities occur or where such activities disturb the natural land surface. Such areas shall also include land affected by mineral exploration operations which substantially disturb the natural land surface, and any adjacent land the use of which is incidental to any such activities, all lands affected by the construction of new roads or the improvement or use of existing roads to gain access to the site of such activities and for haulage, and excavations, workings, impoundments, dams, ventilation shafts, entryways, refuse banks, dumps, stockpiles, overburden piles, spoil banks, culm banks, tailings, holes or depressions, repair areas, storage areas, processing areas, shipping areas, and other areas upon which are sited structures, facilities, or other property or materials on the surface, resulting from or incident to such activities.

(4) The term "surface mining and stabilization operations" means surface mining operations and all activities necessary and incident to stabilization of such operations.

(5) The term "lands within any State" means all lands within a State,

(6) The term "person" means an individual, partnership, association, society, joint stock company, firm, company, corporation, or other business organization.

(7) The term "operator" means any person engaged in a coal mining operation who removes or intends to remove coal from the earth by surface or underground coal mining operations, or who removes more than two hundred and fifty tons of overburden for the purpose of determining the location, quality, or quantity of a natural coal deposit.

(8) The term "contour" means the surface coal mining of a seam of coal upon a natural downslope in excess of twenty degrees from the horizontal adjacent to the outcropping of a seam of coal.

(9) The term "coal" means bituminous coal, subbituminous coal, lignite, and anthracite.

(10) The term "stabilization" or "stabilize" means the combined process of land treatment that eliminates water degradation, air pollution, damage to aquatic or wildlife habitat, flooding, erosion, other harmful effects or after-effects from surface mining operations, or surface effects from underground mines, so that affected lands are restored to a stable and nonharmful condition and create no danger to public safety, barriers to access or reduce the value of surrounding lands. The process may extend to affected lands surrounding the lands on which the original mining occurred and may require backfilling to approximate original contouring, grading, resoiling, revegetation, soil compaction, and stabilization, in order to eliminate water or soil pollution, erosion, flooding resulting from surface mining, water degradation or pollution from unfilled cracks and fissures or any other activity to accomplish stabilization of land to a stable condition at least fully capable of supporting the uses or higher or better uses which they were capable of supporting prior to any mining, so long as such use or uses do not prevent any actual or probable hazard to public health or safety or pose any actual or probable threat of water diminution of pollution.

(11) The term "restore the approximate original contour" means that part of the stabilization process achieved by grading from a point at the top of the highwall to a point at the toe of the spoil bank in which the maximum slope shall not exceed the original average slope from the horizontal and the surface configuration achieved shall complement and blend into the drainage pattern of the surrounding terrain, with all highwalls, spoil piles, and depressions eliminated.

(12) The term "silt" means soil, soil or rock particles, wood, debris, or other materials that are transported by suspension or floating in streams flowing from or through mining areas.

(13) The term "overburden" means all of the earth and other materials removed or excavated for the purpose of exposing a coal seam in order to surface mine the coal, and includes earth and other materials removed from their natural state in the process of surface coal mining.

(14) The term "spoil bank" means any deposit of removed overburden, waste, culm banks, or other similar material from either surface or underground coal mining operations.

(15) The term "written consent" means such written consent as is executed by the owner of the surface estate after the date of enactment of this Act, upon a form approved by the Administrator, and shall demonstrate that such owner consents to entry of an operator for the purpose of conducting surface coal mining operations and that such consent is given only to such surface coal mining and stabilization operations which fully comply with the terms and requirements of this Act.

(16) The term "permit area" means the area of land indicated on the approved map submitted by the operator with his application, which area of land shall be covered by the operator's bond as required by section 110(a) of this Act and shall be readily identifiable by appropriate markers on the site.

TITLE II—ABANDONED MINE STABILIZATION

ABANDONED COAL MINE STABILIZATION FUND

SEC. 201. (a) There is created in the Treasury of the United States a fund to be known as the Abandoned Coal Mine Stabilization Fund (hereafter refered to as the "fund").

(b) There is authorized to be appropriated to the fund initially the sum of $100,000,000, and such other sums as may thereafter be appropriated by the Congress.

(c) The following additional money shall be deposited in the fund:

(1) Money derived from the sale, lease, or rental of land stabilized pursuant to this title.

(2) Money derived from any user charge imposed on or for land stabilized pursuant to this title, after expenditures for maintenance have been deducted.

(3) Money derived from the stabilization fees levied under subsection (e) of this section.

(d) The Chief of the Corps of Engineers is authorized to use the money in the fund for the acquisition and stabilization of land under section 206 for acquisitions and filling of voids and sealing of tunnels, shafts, and entryways under section 207 and to make available to the Secretary of Agriculture, for his use under section 205, one-third of the money in the fund during any one year.

(e) All operators of surface coal mining operations active on or after the date of enactment of this Act shall for each calendar

quarter following the date of enactment of this Act pay a stabilization fee to the Chief of the Corps of Engineers on a quarterly basis equal in amount to $2 per ton of coal mined during the preceding calendar quarter. All operators of underground coal mining operations active on or after the date of enactment of this Act shall for each calendar quarter following the date of enactment of this Act pay a stabilization fee to the Chief of the Corps of Engineers on a quarterly basis equal in amount to 25 cents per ton of coal mined during the preceding calendar quarter.

OBJECTIVES OF FUND

SEC. 202. Objectives for the obligation of funds for the stabilization of previously mined areas shall reflect the following priorities in the order stated:

(1) The protection of health or safety of the public.

(2) Protection of the enviroment from continued degradation and the conservation of land and water resources.

(3) The protection, construction, or enhancement of public facilities such as utilities, roads, recreation, and conservation facilities and their use.

(4) The improvement of lands and waters to a suitable condition useful in the economic and social development of the area affected.

ELIGIBLE LANDS

SEC. 203. The only land eligible for stabilization expenditures under this title are those which were mined for coal or which were affected by such mining, wastebanks, coal processing, or other mining processes, and abandoned or left in an inadequate stabilization status prior to the enactment of this Act, and for which there is no continuing responsibility for such stabilization under State or other Federal laws.

STABILIZATION RESPONSIBILITY

SEC. 204. (a) Operators or permittees shall abate all offsite continuing or episodic polluting discharges, mine or refuse bank fires or other conditions that present an adverse effect on the health and safety of the public that resulted from past mining operations, and that exist within the permit area as designated in title I of this Act. Stabilization methods and procedures shall become a part of the mining and stabilization plan provided for in title I of this Act.

(b) Mining companies shall eliminate continuing polluting discharges, mine or refuse bank fires or conditions that present an adverse effect on the health and safety of the public of mined lands where the mining company has in the past conducted mining operations on or beneath the surface of the land, did not stabilize such land and on or after the effective date of this Act held the mineral rights to such land; or substantial areas of such land.

(c) Operators not in compliance with this section shall be subject to the procedures and penalties provided in title I of this Act.

STABILIZATION OF RURAL LANDS

SEC. 205. (a) In order to provide for the control and prevention of erosion and sediment damages from unstabilized mining lands, and to promote the conservation and development of the soil and water resources, the Secretary of Agriculture is authorized to enter into agreements of not more than ten years with landowners, residents, and tenants, and individually or collectively, determined by him to have control for the period of the agreement of the lands in question therein, providing for land stabilization, erosion and sediment control, and stabilization through conservation treatment, including measures for the conservation and development of soil, water (excluding stream channelization), woodland, wildlife, and recreation resources, of unstabilized mined lands and lands affected by mining.

(b) The landowner, resident, or tenant shall furnish to the Secretary of Agriculture a conservation and development plan setting forth the proposed land uses and conservation treatment which shall be mutually agreed by the Secretary of Agriculture and the landowner, resident, or tenant to be needed on the lands for which the plan was prepared.

(c) Such plan shall be incorporated in an agreement under which the landowner, resident, or tenant shall agree with the Secretary of Agriculture to effect the land uses and conservation treatment provided for in such plan on the lands described in the agreement in accordance with the terms and conditions thereof.

(d) In return for such agreement by the landowner, resident, or tenant the Secretary of Agriculture is authorized to furnish financial and other assistance to such landowner, resident, or tenant in such amounts and subject to such conditions as the Secretary of Agriculture determines are appropriate and in the public interest for the carrying out of the land uses and conservation treatment set forth in the agreement. Grants made under this section shall not exceed 80 per centum of the cost of carrying out such land uses and conservation treatment on not more than thirty acres of land occupied by such owner, resident, or tenant.

(e) The Secretary of Agriculture may terminate any agreement with a landowner, operator, or occupier by mutual agreement if the Secretary of Agriculture determines that such termination would be in the public interest, and may agree to such modification of agreements previously entered into hereunder as he deems desirable to carry out the purposes of this section or to facilitate the practical administration of the program authorized herein.

(f) Notwithstanding any other provision of law, the Secretary of Agriculture, to the extent he deems it desirable to carry out the purposes of this section, may provide in any agreement hereunder for (1) preservation for a period not to exceed the period covered by the agreement and an equal period thereafter of the cropland, crop acreage, and allotment history applicable to land covered by the agreement for the purpose of any Federal program under which such history is used as a basis for an allotment or other limitaton on the production of such crop; or (2) surrender of any such history and allotments.

(g) The Secretary of Agriculture shall be authorized to issue such rules and regulations as he determines are necessary to carry out the provisions of this section.

(h) In carrying out the provisions of this section, the Secretary of Agriculture shall utilize the services of the Soil Conservation Service, and the State and local committees provided for in section 8(b) of the Soil Conservation and Domestic Allotment Act, and is authorized to utilize the facilities, service, and authorities of the Commodity Credit Corporation.

(i) In all agreements entered into pursuant to subsection (a) of this section the Secretary of Agriculture shall require that, in hiring persons to perform work under the agreement, preference shall be given former employees of surface coal mines.

(j) Money in the fund created by this section, and in the fund created under section 201, shall be made available to the Secretary of Agriculture for the purposes of this section.

ACQUISITION AND STABILIZATION OF ABANDONED AND UNSTABILIZED MINED LANDS

SEC. 206. (a) The Congress hereby declares that the acquisition of any interest in land or mineral rights in order to eliminate hazards to the health and safety of the public from mined lands, construct, operate, or manage stabilization facilities and projects constitutes acquisition for a public use or purpose, notwithstanding that the Chief of the Corps of Engineers plans to hold the interest in land or mineral rights so acquired as an open space or for recreation, or to resell the land following completion of the stabilization facility or project.

(b) The Chief of the Corps may acquire by purchase, donation, or otherwise, land or any interest therein which has been affected by surface mining and has not been stabilized to its approximate original condition. Prior to making any acquisition of land under this section, the Chief of the Corps shall make a thorough study with respect to those tracts of land which are available for acquisition under this section and based upon those findings he shall select lands for purchase according to the priorities established in section 202. Title to all lands or interests therein acquired shall be taken in the name of the United States. The price paid for land under this section shall take into account the unrestored condition of the land. Prior to any individual acquisition under this section, the Chief of the Corps of Engineers shall specifically determine the cost of such acquisition and stabilization and the benefits to the public to be gained therefrom.

(c) For the purposes of this title, when the Chief of the Corps seeks to acquire an interest in land or mineral rights, and cannot negotiate an agreement with the owner of such interest or right he shall request the Attorney General to file a condemnation suit and take interest or right, following a tender of just compensation as awarded by a jury to such person. When the Chief of the Corps determines that time is of the essence because of the likelihood of continuing or increasingly harmful effects upon the environment which would substantially increase the cost or magnitude of stabilization or of continuing or increasingly adverse effects on life, safety, or health, or to property, the Chief of the Corps may take such interest or rights immediately upon payment by the United States either to such person or into a court of competent jurisdiction of such amount as the Chief of the Corps shall estimate to be the fair market value of such interest or rights; except that the Chief of the Corps of Engineers shall also pay to such person any further amount that may be subsequently awarded by a jury, with interest from the date of the taking.

(d) For the purposes of this title, when the Chief of the Corps takes action to acquire an interest in land and cannot determine which person or persons hold title to such interest or rights, the Chief of the Corps shall request the Attorney General to file a condemnation suit, and give notice, and may take such interest or rights immediately upon payment into court of such amount as the Chief of the Corps shall estimate to be the fair market value of such interest or rights. If a person or persons establishes title to such interest or rights within six years from the time of their taking, the court shall transfer the payment to such person or persons and the Chief of the Corps shall pay any further amount that may be agreed to pursuant to negotiations or awarded by a jury subsequent to the time of taking. If no person or persons establish title to the interest or rights within six years from the time of such taking, the payment shall revert to the Chief of the Corps and be deposited in the fund.

(e) States are encouraged to acquire abandoned and unstabilized mined lands within their boundaries and to transfer such lands to the Chief of the Corps to be stabilized under appropriate Federal regulations.

The Chief of the Corps is authorized to make grants on a matching basis to States in such amounts as he deems appropriate for the purpose of carrying out of the provisions of this title but in no event shall any grant exceed 90 per centum of the cost of acquisition of the lands for which the grant is made. When a State has made any such land available to the Federal Government under this title, such State shall have a preference right to purchase such lands after stabilization at fair market value less the State portion of the original acquisition price. Notwithstanding the provisions of paragraph (1) of this subsection, stabilized land may be sold to the State or local government in which it is located at a price less than fair market value, which in no case shall be less than the cost to the United States of the purchase and stabilization of the land, as negotiated by the Chief of the Corps, to be used for a valid public purpose. If any land sold to a State or local government under this paragraph is not used for a valid public purpose as specified by the Chief of the Corps in the terms of the sales agreement then all right, title, and interest in such land shall revert to the United States. Money received from such sale shall be deposited in the fund.

(f) The Chief of the Corps shall prepare specifications for the stabilization of lands acquired under this title. In preparing these specifications, the Chief of the Corps shall utilize the specialized knowledge or experience of any Federal department or agency which can assist him in the development or implementation of the stabilization program required under this title and following the standards for stabilization set forth in this Act. The Chief of the Corps of Engineers may, with the approval of the Administrator of the department or agency involved, call to his assistance temporarily any engineer or other personnel of any Federal department or agency. The engineers and employees shall not receive any additional compensation other than that which they receive from the department or agency by which they are employed, but they shall be reimbursed for their actual and necessary expenses incurred while working under the direction of the Chief of the Corps. The Chief of the Corps shall follow the consultation and notification procedures specified in section 108(a) prior to the final approval of a stabilization plan.

(g) Any proposed stabilization contract shall be approved by the Chief of the Corps. Except as otherwise required by subsection (i), the Chief of the Corps shall award each contract to the lowest qualified bidder after sealed bids are received, opened, and published at the time and place fixed by the Chief of the Corps and notice of the time and place at which the bids will be received, opened, and published, has been advertised at least once at least ten days before the opening of the bids, in a newspaper of general circulation in each county in which the area of land to be stabilized under such contract is located. If no bids for the advertised contract are received at the time and place fixed for receiving them, the Chief of the Corps may advertise again, but he may, if he deems the public interest will be best served thereby, enter into a contract without further advertisement for bids. The Chief of the Corps may reject any or all bids received and may fix and publish again notice of the time and place at which new bids for the contract will be received, opened, and published.

(h) In awarding stabilization contracts, the Chief of the Corps shall require that preference be given to former employees of surface coal mines.

(i) In selecting lands to be acquired pursuant to this title and in formulating regulations for the making of grants to the States to acquire lands pursuant to this title, the Chief of the Corps shall give priority to lands in this unstabilized state which will meet the objectives as stated in section 203 above when stabilized. For those lands which are stabilized for public recreational use, the revenue derived from such lands shall be used first to assure proper maintenance of such funds and facilities thereon and any remaining moneys shall be deposited in the fund.

(j) Where land stabilized pursuant to this title is deemed to be suitable for industrial, commercial, residential, or private recreational development, the Chief of the Corps may sell such land by public sale under a system of competitive bidding, at not less than fair market value and under other such regulations as he may promulgate to insure that such lands are put to a proper use, as determined by the Chief of the Corps. If any such land sold is not put to the use specified by the Chief of the Corps in the terms of the sales agreement, then all right, title, and interest in such land shall revert to the United States. Money received from such sale shall be deposited in the fund.

(k) The Chief of the Corps shall hold a public hearing, with the appropriate notice, in the county or counties or the appropriate subdivisions of the State in which lands acquired to be stabilized pursuant to this title are located. The hearing shall be held at a time which shall afford local citizens and governments the maximum opportunity to participate in the decision concerning the use of the lands once stabilized.

(l)(1) The Chief of the Corps of Engineers is authorized to use money in the fund to acquire, reclaim, develop, and transfer land to any State, or any department, agency, or instrumentality of a State or a political subdivision thereof, or to any person, firm, association, or corporation if he determines that such is an integral and necessary element of an economically feasible plan for a project to construct or rehabilitate housing for persons employed in mines or work incidental thereto, persons disabled as the result of such employment, persons displaced by governmental action, or persons dislocated as the result of natural disasters or catastrophic failure from any cause. Such activities shall be accomplished under such terms and conditions as the Chief of the Corps of Engineers shall require, which may include transfers of land with or without monetary consideration: *Provided*, That, to the extent that the consideration is below the fair market value of the land transferred, no portion of the difference between the fair market value and consideration shall accrue as a profit to such person, firm, association, or corporation. Land development may include the construction of public facilities or other improvements including reasonable site work and offsite improvements such as sewer and water extensions which the Chief of the Corps determines necessary or appropriate to the economic feasibility of a project. No part of the funds provided under this title may be used to pay the actual construction costs of housing.

(2) The Chief of the Corps may carry out the purposes of this subsection directly or he may make grants and commitments for grants, and may advance money under such terms and conditions as he may require to any State, or any department, agency, or instrumentality of a State, or any public body or nonprofit organization designated by a State.

(3) The Chief of the Corps may provide, or contact with public and private organizations to provide information, advice, and technical assistance, including demonstrations, in furtherance of this subsection.

FILLING VOIDS AND SEALING TUNNELS

SEC. 207. (a) The Congress declares that voids and open and abandoned tunnels, shafts, and entryways resulting from mining constitute a hazard to the public health and safety. The Chief of the Corps, at the request of the Governor of any State, is authorized to fill such voids and seal such abandoned tunnels, shafts, and entryways which the Chief determines could endanger life and property or constitute a hazard to the public health and safety.

(b) In those instances where mine waste piles are being reworked for coal conservation purposes, the incremental costs of disposing of the wastes from such operations by filling voids and sealing tunnels may be eligible for funding providing that the disposal of these wastes meets the purposes of this section.

(c) The Chief of the Corps of Engineers may acquire by purchase, donation, or otherwise such interest in land as he determines necessary to carry out the provisions of this section.

FUND REPORT

SEC. 208. Not later than January 1, 1976, and annually thereafter, the Chief of the Corps shall report to the Congress on operations under the fund together with his recommendations as to future uses of the fund.

TITLE III—ASSISTANCE TO WORKERS

AUTHORITY

SEC. 301. The Secretary of Labor shall determine whether applicants are entitled to receive assistance under this title and shall pay or provide such assistance to applicants who are so entitled.

PART A—READJUSTMENT ALLOWANCES

QUALIFYING REQUIREMENTS

SEC. 310. (a) Payment of a readjustment allowance shall be made to an adversely affected worker who applies for such allowance for any week of unemployment which begins after the thirtieth day after the date of the enactment of this Act, subject to the requirements of subsections (b) and (c).

(b) Total or partial separation shall have occurred—

(1) after the date of the enactment of this Act,

(2) before the expiration of the two-year period beginning on the day on which an individual becomes an "adversely affected worker" as defined in section 345(1).

(c) Such worker shall have had in the one hundred and fifty-six weeks immediately preceding such total or partial separation, at least fifty-two weeks of employment in a coal mine at wages of $15 or more a week, or if data with respect to weeks of employment are not available, equivalent amounts of employment computed under regulations prescribed by the Secretary of Labor.

WEEKLY AMOUNTS

SEC. 311. (a) Subject to the other provisions of this section, the readjustment allowance payable to an adversely affected worker for a week of unemployment shall be an amount equal to 90 per centum of his average weekly wage or to 90 per centum of the average weekly manufacturing wage, whichever is greater.

(b) Any adversely affected worker who is entitled to readjustment allowances and who is undergoing training approved by the Secretary of Labor, including on-the-job training, shall receive for each week in which he is undergoing any such training, a readjustment allowance in an amount (computed for such week) equal to the amount computed under subsection (a) or (if greater) the amount of any weekly allowance for such training to which he would be entitled under any other Federal law for the training of workers, if he applied for such allowance. Such readjustment allowance shall be paid in lieu of any training allowance to which the worker would be entitled under such other Federal law.

(c) The amount of readjustment allowance payable to an adversely affected worker under subsection (a) or (b) for any week shall be reduced by any amount of unem-

ployment insurance which he has received with respect to such week.

(d) If unemployment insurance, or a training allowance under the Manpower Development and Training Act of 1962 or the Area Redevelopment Act, is paid to an adversely affected worker for any week of unemployment with respect to which he would be entitled (determined without regard to subsection (c) or (e) or to any disqualification under section 331) to a readjustment allowance if he applied for such allowance, each such week shall be deducted from the total number of weeks of readjustment allowance otherwise payable to him under section 312(a) when he applies for a readjustment allowance and is determined to be entitled to such allowance. If the unemployment insurance or the training allowance paid to such worker for any week of unemployment is less than the amount of the readjustment allowance to which he would be entitled if he applied for such allowance, he shall receive, when he applies for a readjustment allowance and is determined to be entitled to such allowance, a readjustment allowance for such a week equal to such difference.

(e) Whenever, with respect to any week of unemployment, the total amount payable to an adversely affected worker as remuneration for services performed during such week, as unemployment insurance, as a training allowance referred to in subsection (d), and as a readjustment allowance would exceed 85 per centum of his average weekly wage, his readjustment allowance for such week shall be reduced by the amount of such excess.

(f) The amount of any weekly payment to be made under this section which is not a whole dollar amount shall be rounded upward to the next higher whole dollar amount.

(g)(1) If unemployment insurances is paid under a State law to an adversely affected worker for a week which—

(A) he receives a readjustment allowance, or

(B) he makes application for a readjustment allowance and would be entitled (determined without regard to subsection (c) or (e)) to receive such allowance,

the State agency making such payment shall, unless it has been reimbursed for such payment under other Federal law, be reimbursed from funds appropriated pursuant to section 344 to the extent such payment does not exceed the amount of the readjustment allowance which such worker would have received, or would have been entitled to receive, as the case may be, if he had not received the State payment. The amount of such reimbursement shall be determined by the Secretary of Labor on the basis of reports furnished to him by the State agency.

(2) In any case in which a State agency is reimbursed under paragraph (1) for payments of unemployment insurance made to an adversely affected worker, such payments, and the period of unemployment of such worker for which such payments were made, may be disregarded under the State law (and for purposes of applying section 3303 of the Internal Revenue Code of 1954) in determining whether or not an employer is entitled to a reduced rate of contributions permitted by the State law.

TIME LIMITATIONS ON READJUSTMENT ALLOWANCES

SEC. 312. (a) Payment of readjustment allowances shall not be made to an adversely affected worker for more than one hundred and four weeks, except that, in accordance with regulations prescribed by the Secretary of Labor—

(1) such payments may be made for not more than twenty-six additional weeks to an adversely affected worker to assist him to complete training approved by the Secretary of Labor, or

(2) such payments shall be made for not more than thirteen additional weeks to an adversely affected worker who had reached his sixtieth birthday on or before the date of total or partial separation.

(b) Except for a payment made for an additional week specified in subsection (a), a readjustment allowance shall not be paid for a week of unemployment beginning more than three years after the beginning of the appropriate week. A readjustment allowance shall not be paid for any additional week specified in subsection (a) if such week begins more than four years after the beginning of the appropriate week. The appropriate week for a totally separated worker is the week of his most recent total separation. The appropriate week for a partially separated worker is the week in respect of which he first receives a readjustment allowance following his most recent partial separation.

APPLICATION OF STATE LAWS

SEC. 313. Except where inconsistent with the provisions of this title and subject to such regulations as the Secretary of Labor may prescribe, the availability and disqualification provisions of the State law—

(1) under which an adversely affected worker is entitled to unemployment insurance (whether or not he has filed a claim for such insurance), or

(2) if he is not so entitled to unemployment insurance, of the State in which he was totally or partially separated,

shall apply to any such worker who files a claim for readjustment allowances. The State law so determined with respect to a separation of a worker shall remain applicable, for purposes of the preceding sentence, with respect to such separation until such worker becomes entitled to unemployment insurance under another State law (whether or not he has filed a claim for such insurance).

PART B—TRAINING

IN GENERAL

SEC. 320. (a) To assure that the readjustment of adversely affected workers shall occur as quickly and effectively as possible, with minimum reliance upon readjustment allowances under this title, every effort shall be made to prepare each such worker for full employment in accordance with his capabilities and prospective employment opportunities. To this end, and subject to this title, adversely affected workers shall be afforded, where appropriate, the testing, counseling, training, and placement services provided for under any Federal law. Such workers shall also be afforded supplemental assistance necessary to defray transportation and subsistence expenses for separate maintenance when such training is provided in facilities which are not within commuting distance of their regular place of residence. The Secretary of Labor in defraying such subsistence expenses shall not afford any individual an allowance exceeding $10 a day; nor shall the Secretary authorize any transportation expense exceeding the rate of 10 cents per mile.

(b) To the extent practicable, before adversely affected workers are referred to training, the Secretary of Labor shall consult with such workers' firm and their certified or recognized union or other duly authorized representative and develop a worker retraining plan which provides for training such workers to meet the manpower needs of such firm in order to preserve or restore the employment relationship between the workers and the firm.

(c) The Secretary of Labor is authorized to transfer funds appropriated to carry out this title to other appropriation accounts to be used to defray the costs of providing testing, counseling, training, and placement services under other Federal laws, as authorized by subsection (a).

PART C—RELOCATION ALLOWANCES

RELOCATION ALLOWANCES AFFORDED

SEC. 330. Any adversely affected worker who is the head of a family as defined in regulations prescribed by the Secretary of Labor and who has been totally separated may file an application for a relocation allowance, subject to the terms and conditions of this part.

QUALIFYING REQUIREMENTS

SEC. 331. (a) A relocation allowance may be granted only to assist an adversely affected worker in relocating within the United States and only if the Secretary of Labor determines that such worker cannot reasonably be expected to secure suitable employment in the commuting area in which he resides and that such worker—

(1) has obtained suitable employment affording a reasonable expectation of long-term duration in the area in which he wishes to relocate, or

(2) has obtained a bona fide offer of such employment.

(b) A relocation allowance shall not be granted to such worker unless—

(1) for the week in which the application for such allowance is filed, he is entitled (determined without regard to section 311(c) and (e)) to a readjustment allowance or would be so entitled (determined without regard to whether he filed application therefor) but for the fact that he has obtained the employment referred to in subsection (a)(1), and

(2) such relocation occurs within a reasonable period after the filing of such application or (in the case of a worker who has been referred to training by the Secretary of Labor) within a reasonable period after the conclusion of such training.

RELOCATION ALLOWANCE DEFINED

SEC. 332. For purposes of this part, the term, "relocation allowance" means—

(1) the reasonable and necessary expenses, as specified in regulations prescribed by the Secretary of Labor, incurred in transporting a worker and his family and their household effects, and

(2) a lump sum equivalent to three and one-half times the average weekly manufacturing wage.

PART D—GENERAL PROVISIONS

AGREEMENTS WITH STATES

SEC. 340. (a) The Secretary of Labor is authorized on behalf of the United States to enter into an agreement with any State, or with any State agency. Under such an agreement, the State agency (1) as agent of the United States, will receive applications for, and will provide, assistance on the basis provided in this title, (2) where appropriate, will afford adversely affected workers who apply for assistance under this title testing, counseling, referral to training, and placement services, and (3) will otherwise cooperate with the Secretary of Labor and with other State and Federal agencies in providing assistance under this title.

(b) Each agreement under this part shall provide the money so paid which is not used for such purposes shall be returned, at the time specified in the agreement under this part, to the Treasury and credited to current applicable appropriations, funds, or accounts from which payments to States under this section may be made.

(c) Any agreement under this part may require any officer or employee of the State certifying payments or disbursing funds under the agreement, or otherwise participating in the performance of the agreement, to give a surety bond to the United States in such amount as the Secretary of Labor may deem necessary, and may provide for the payment of the cost of such bond from funds for carrying out the purposes of this title.

LIABILITIES OF CERTIFYING AND DISBURSING OFFICERS

SEC. 301. (a) No person designated by the Secretary of Labor, or designated pursuant to an agreement under this part, as a certifying officer, shall, in the absence of gross negligence or intent to defraud the United States, be liable with respect to the payment of any allowance certified by him under this title.

(b) No disbursing officer shall, in the absence of gross negligence or intent to defraud the United States, be liable with respect to any payment by him under this title if it was based upon a voucher signed by a certifying officer designated as provided in subsection (a).

RECOVERY OF OVERPAYMENTS

SEC. 342. (a) If a State agency or the Secretary of Labor, or a court of competent jurisdiction finds that any person—

(1) has made, or has caused to be made by another, a false statement or representation of a material fact knowing it to be false, or has knowingly failed or caused another to fail to disclose a material fact; and

(2) as a result of such action has received any payment of allowances under this title to which he was not entitled,

such person shall be liable to repay such amount to the State agency or the Secretary of Labor, as the case may be, or either may recover such amount by deductions from any allowance payable to such person under this title. Any such finding by a State agency or the Secretary of Labor may be made only after an opportunity for a fair hearing.

(b) Any amount repaid to a State agency under this section shall be deposited into the fund from which payment was made. Any amount repaid to the Secretary of Labor under this section shall be returned to the Treasury and credited to the current applicable appropriation, fund, or account from which payment was made.

REVIEW

SEC. 343. Except as may be provided in regulations prescribed by the Secretary of Labor to carry out his functions under this title, determinations under this title as to the entitlement of individuals, for adjustment assistance shall be final and conclusive for all purposes and not subject to review by any court or any other officer. To the maximum extent practicable and consistent with the purposes of this title, such regulations shall provide that such determinations by a State agency will be subject to review in the same manner and to the same extent as determinations under the State law.

AUTHORIZATION OF APPROPRIATIONS

SEC. 344. There are hereby authorized to be appropriated to the Secretary of Labor such sums as may be necessary from time to time to carry out his functions under this title in connection with furnishing adjustment assistance to workers, which sums are authorized to be appropriated to remain available until expended.

DEFINITIONS

SEC. 345. For the purposes of this title—

(1) The term "adversely affected worker" means an individual who the Secretary determines, by reason of the requirements of title I, has been totally or partially separated from employment in a surface or underground coal mining operation.

(2) The term "average weekly manufacturing wage" means the national gross average weekly earnings of production workers in manufacturing industries for the latest calendar year (as officially published annually by the Bureau of Labor Statistics of the Department of Labor) most recently published before the period for which the assistance under this title is furnished.

(3) The term "average weekly wage" means one-half of the total wages paid to an individual in the high quarter. For purposes of this computation, the high quarter shall be that quarter in which the individual's total wages were highest among the first four of the last five completed calendar quarters immediately before the quarter in which occurs the week with respect to which the computation is made. Such week shall be the week in which total separation occurred, or, in cases where partial separation is claimed, an appropriate week, as defined in regulations prescribed by the Secretary of Labor.

(4) The term "average weekly hours" means the average hours worked by the individual (excluding overtime) in the employment from which he has been or claims to have been separated in the fifty-two weeks (excluding weeks during which the individual was sick or on vacation) preceding the week specified in the last sentence of paragraph (3).

(5) The term "partial separation" means, with respect to an individual who has not been totally separated, that he has had his hours of work reduced to 60 per centum or less of his average weekly hours in employment and his wages reduced to 75 per centum or less of his average weekly wage in such employment.

(6) The term "remuneration" means wages and net earnings derived from services performed as a self-employed individual.

(7) The term "State agency" means the agency of the State which administers the State law.

(8) The term "State law" means the unemployment insurance law of the State approved by the Secretary of Labor under section 3304 of the Internal Revenue Code of 1954.

(9) The term "total separation" means the layoff or severance of an individual from employment.

(10) The term "unemployment insurance" means the unemployment insurance payable to an individual under any State law or Federal unemployment insurance law, including title XV of the Social Security Act, the Railroad Unemployment Insurance Act, and the Temporary Extended Unemployment Compensation Act of 1961.

(11) The term "week" means a week as defined in the applicable State law.

(12) The term "week of unemployment" means with respect to an individual any week for which his remuneration for services performed during such week is less than 75 per centum of his average weekly wage and in which, because of lack of work—

(A) if he has been totally separated, he worked less than the full-time week (excluding overtime) in his current occupation, or

(B) if he has been partially separated, he worked 80 per centum or less of his average weekly hours.

Mr. UDALL (during the reading). Mr. Chairman, I ask unanimous consent that further reading of the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. HECHLER) for the committee amendment in the nature of a substitute, be dispensed with and that it be printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Arizona?

There was no objection.

Mr. HECHLER of West Virginia. Mr. Chairman, to the 156 loyal troops who stood by the gentleman from California in the Hosmer amendment, I would say welcome, come over to our side and join in support of the Hechler substitute, H.R. 15000.

Mr. Chairman, remarks have been made during this debate about the environmental ethic and the energy ethic. I would suggest, Mr. Chairman, that we who live together on spaceship Earth have to consider not only the minerals that we mine versus the environment, but we also must consider the people who live on this spaceship.

There are those who speak very glibly of the tradeoffs which are necessary between energy and the environment—as though this world were some kind of a big apple pie and you cut a one-sized piece for energy and leave what is left over for something called environment. Mr. Chairman, we all live together as passengers on this spaceship Earth, where our supplies of clean air, pure water, topsoil and minerals are indeed finite. Yet the reconciliation we seek is not as simply stated in terms of tradeoffs. What we really mean is how the people, the human beings on this Earth can be supplied with material goods and at the same time to preserve those finite resources of air, water, soil, forests, minerals and their relationship one to the other.

I suggest, Mr. Chairman, that strippable coal is a scarce commodity. We only have 45 billion tons left. As we shoot toward coal production of over a billion tons a year, and 2–3 billion in the years ahead, as we get into coal gasification and liquefaction, it is easy to see that by the end of this century all strippable coal may be exhausted.

In the Department of the Interior study entitled "Energy Research Program," it is predicted that western stripped coal will all be gone by 1996, and most of the eastern stip coal also.

The Hechler substitute, H.R. 15000, is supported by 41 Members of the House from 17 different States.

My substitute is the only approach to the energy needs of this Nation which involves planning for the needs of the 1980's and 1990's and thereafter.

To those people that talk about a need for coal, I say we are now exporting 10 percent of our total coal production. In the month of May, we exported 6 million tons of coal out of a total production of 57 million tons—over 10 percent.

What is more, it seems to me that the Duke Power Co. is really holding up vital coal production by refusing to sign a contract with the United Mine Workers in Harlan, Ky., to produce badly needed coal. Duke Power, a multibillion dollar corporation, has refused to allow its subsidiary to recognize the free choice of a clear majority of the Brookside coal miners, who voted over a year ago, to affiliate with the United Mine Workers of America.

HOW MUCH COAL WILL WE NEED?

We are now producing about 600 million tons of coal per year, of which about

10 percent is being exported. Critics of H.R. 15000 have pointed out that about 50 percent of current coal production is strip mined, and that abolition of strip mining would create a severe energy crisis.

Three years ago, when I first introduced and testified on legislation to abolish strip mining, horrified critics in the coal industry and elsewhere declared: "You are going to bring strip mining to a grinding halt overnight; that is irresponsible, since so much of our Nation's coal is strip mined." At the time, I carefully pointed out that it was highly unlikely that the legislation would be enacted in 1 day, and in any case the supplies and reserves of deep minable coal so far exceeded the strippable coal that from the standpoint of energy alone it was vital to put more emphasis on underground mining. Instead, the coal industry, with encouragement by Federal and State authorities, proceeded to close down many of their deep mines and continued the headlong rush toward increasing strip mining.

In charting the course which this Nation should take toward strip-mined coal, it is extremely important to assess what are the actual reserves and resources of coal, the quality and sulfur content of that coal, and how it is to be mined and transported to serve our energy demands.

The most recent objective analysis of coal reserves and resources was published by the Senate Committee on Interior and Insular Affairs in 1973, and entitled "Factors Affecting the Use of Coal in Present and Future Energy Markets." This document comprises an independent study from official sources. Based on estimates of the U.S. Geological Survey—

The total coal resources of the United States amount to more than three trillion tons. Of these total coal resources, some 50 percent, or 1.5 trillion tons of bituminous coal and lignite, are considered to be recoverable reserves (i.e., minable under current economic conditions with present technology, or technology that may be available in the foreseeable future.) At current levels of output and recovery, these reserves can be expected to last more than 500 years.

RATIO OF DEEP TO STRIPPABLE RESERVES

The U.S. Bureau of Mines has estimated that approximately 45 billion tons of this are strippable. The ratio of the deep minable reserves to the strippable reserves, according to these figures, would seem to indicate that there is over 30 times as much deep minable coal as there is strippable coal.

I prefer to rely on the far more conservative statistics supplied by the U.S. Bureau of Mines, which indicate that of the 1.5 trillion tons, we should really pare that down to the very bare minimum of what we know we can recover economically with presently available technology.

The U.S. Bureau of Mines sets the figure of deep minable coal at about 356 billion tons, as against 45 billion tons of strippable coal. This is an extremely conservative analysis of the amount of underground coal this Nation possesses, but even using the most conservative figures you can see that the ratio is about 8 to 1 in terms of the larger supply of deep minable coal.

One of the first questions which naturally arises—how much of this coal is low-sulfur coal? You hear a lot of uninformed comment today from those who imagine that we only strip mine because deep mining produces coal with a lot of sulfur and a lot of smoke. You also hear a lot of comment that we had better open up the western coal fields of Wyoming, Montana, Colorado, and New Mexico for some quick and unregulated strip mining, because all that coal out there is low sulfur.

What are the facts?

Again, using the most conservative U.S. Bureau of Mines estimates, here are the actual statistics on availability and geographic location of both deep minable and strippable coal, as well as the sulfur content:

ECONOMICALLY RECOVERABLE COAL RESERVES USING PRESENT TECHNOLOGY

[In billions of tons]

	Deep-minable	Strippable
All reserves:		
Appalachia	67.6	5.1
Midwest	49.8	7.3
West	238.3	32.6
Total, United States	355.7	45.0
Low-sulfur reserves:		
Appalachia	18.6	1.8
Midwest	.2	0
West	202.7	29.9
Total, United States	221.5	31.7

Note: Library of Congress had indicated that 11,500,000,000 of the 45,000,000,000 tons of strippable coal can also be deep-mined.

SEVEN TIMES AS MUCH DEEP AS STRIPPABLE LOW-SULFUR COAL

What conclusions can be drawn from these statistics?

First. Quoting the Senate report—

It is obvious that the sheer physical availability of coal will not be a limiting factor in its use as a fuel in the next few decades.

Second. Most of the midwestern coal in Illinois, west Kentucky, Missouri, and Ohio is high sulfur, with sulfur content of more than 2 percent. This would seem to limit the usefulness of the strippable coal in the Midwest.

Third. The huge bulk of low-sulfur reserves of coal are in the Western States of Montana, Wyoming, and New Mexico, yet there is also a large supply of low-sulfur reserves in West Virginia, Kentucky, and other States of the eastern Appalachian coal fields. In addition, western coal has a much lower Btu content, which means that western coal emits more sulfur per million Btu's.

Fourth. In both the huge western coalfields and the Appalachian area, the amount of low-sulfur coal which is deep-minable exceeds the surface minable coal by a total ratio of over 7 to 1.

Therefore, if the decision were made solely on the issue of how much deep minable versus strippable coal we have, it is my conclusion that we ought to shift our concentration away from strip mining toward deep mining. After all, we are concerned with the availability of total resources. If we continue to strip mine at the increasing rate which current trends indicate, the reserves of strip minable coal will be exhausted, perhaps by the end of this century.

The demands on strippable coal will shoot up even more by the decade of the 1980's, when the technology for coal gasification and liquefaction is perfected. At that point, when the reserves of strippable coal run out, the radical shift over to deep mining will impose drastic dislocations on our economy in terms of capital, machinery and equipment, trained manpower, and the other complex factors necessary to make the abrupt transition.

WHY NOT STOCKPILE STRIPPABLE COAL IN PLACE?

As an alternative, because strip minable coal is so valuable and essential in meeting the energy crisis, it would be preferable to stockpile the strippable coal in place and undisturbed below the surface. Then, if the need arises after the seams of deep minable coal are exhausted, the Nation could quickly turn to strip mining to meet energy needs without the economic dislocations caused by a shift in the other direction from strip mining to deep mining.

PEOPLE

Human beings are a resource.

Although inflation has probably increased the value of all the chemicals in the human body, nobody has effectively quantified the human suffering caused by strip mining. To be sure, there have been very strong contentions that without strip mining, coal and electricity would be priced out of the market and those in poverty-ridden areas would be deprived of the burden-lifting advantages of electricity and appliances. It has also been contended that without strip mining there would ensue brownouts and blackouts, cold homes in the winter, widespread and disastrous effects on jobs and people. These contentions have never been scientifically measured, or the alternatives of deep mining and other forms of energy considered.

All I want to do here today is to raise the issue among my colleagues. I am not here to contend that the people of West Virginia, Kentucky, Montana, and Wyoming deserve to be treated any differently than the people in the rest of the Nation. I just want to be sure that when you listen to the stories about blackouts and brownouts and say you have to continue strip mining, just listen also to people like Mrs. Bige Richie of Knott County, Ky., whose baby's grave was ruthlessly violated, the casket thrown over the hill and piled over with boulders and dirt by a strip mining company. It is about time that the Congress listen to Mrs. Harvey Kincaid of Fayette County, W. Va., whose home and property were invaded by the silt, sediment, polluted water and boulders from a strip mine. So she and her family had to move several miles away, only to have the same strip

mining company start the same destructive process all over again above their new home.

Lots of people ask: Why do those who are damaged not go to court and collect if their property is affected? The Kincaids did go to court and were awarded $10,000 after a lengthy and expensive legal process. But a great deal of the damage is rather subtle and difficult to prove, like the hundreds of West Virginians who are gradually finding that their water wells are getting filled with brackish, metallic, and ill-smelling water—frequently some miles downstream from where the strip miners are operating.

HUMAN DAMAGES CAUSED BY STRIP MINING

How do you measure human suffering? Most of the scientific studies of the effects of strip mining deal with highly impersonal, almost heartlessly neutral factors. We know, for example, that the U.S. Geological Survey made a painstakingly thorough 10-year study entitled "Influences of Strip Mining on the Hydrologic Environment of Parts of Beaver Creek Basin, Ky.," published in 1970. The study made the startling conclusion that 30,000 tons of silt per square mile were discharged from a strip mined area in eastern Kentucky, while close by in a timbered valley where there was no strip mining only 27.9 tons per square mile annually were discharged. Scientific studies like that abound, but who speaks for the human beings who live in these valleys? The strip miners tell me that the people ought to move out so they can get on with their business, and when they are talking with the people they blame the people for causing their own problems by throwing trash in the streams.

One such study was completed in June 1973, at the University of Tennessee. It is entitled "Benefit/Cost Approach to Decision Making: The Dilemma With Coal Production," by F. Schmidt-Bleek and J. R. Moore. This study made over a 10-year period from 1962–72, surveyed all floods occurring in Ohio, Tennessee, and Virginia. Comparing the flood damages in 122 counties, of which 51 counties had strip mining at the time of flooding, the study found the level of damages in strip mined counties approximately double the level in those counties which did not have strip mining.

On October 1973 study, entitled "Strip Mining Increases Flood Potential of Mountain Watersheds," by Willie Curtis of the Forest Service, offers further evidence of how strip mining increases flooding. In examining numerous small watersheds in eastern Kentucky, Curtis found that the "peak flow rates increased by a factor of 3 to 5 after surface mining" along the streams. He also found that the rate at which flood peaks moved downstream was greatly increased in watersheds where strip mining had occurred. Clearly, people living in strip mined areas can expect more floods, greater damage, and less time to escape.

In Farmington, W. Va., the conscience of the Nation was aroused as a result of the death of 78 coal miners in the explosion which occurred on November 20, 1968. As a result, Congress responded to the disaster and enacted the very tough, Federal Coal Mine Health and Safety Act of 1969, which the coal industry insists is driving the price of coal upward. Strip mining is a slow disaster: It is continuous, without the single, searing flash of blinding light to arouse the Congress and the Nation. This is best illustrated by what happened in the 17-mile valley called Buffalo Creek in my congressional district. For years, I have been attempting to call attention to the serious damage to people's homes, property, and water supply from the strip mines high above Buffalo Creek. To be sure, a 76-year-old man from Amherstdale, W. Va., was trapped in some mud which came down from a strip mine, and when they found him the next morning he was dead. But that was only one life. Then the troubles caused by strip mines in Buffalo Creek were forgotten on the morning of February 26, 1972, when water behind a coal waste pile broke through and swept a 30-foot wall of water down the valley, killing 125 people. The people forgot about the strip mines when they were engulfed by a tragedy of that magnitude.

ALL HUMAN BEINGS ARE CREATED EQUAL

I am not suggesting that the problems of the urban electricity user are more important or less important than those of the Appalachian housewife, or the rancher in Montana who finds his land threatened. All I am saying is that this Congress should weigh the fact that all human beings are created equal and energy is a program which is a very human one involving all types of people.

I would also plead, Mr. Chairman, to keep your options open. I do not believe that unchallengable conclusions or rigorously factual information necessarily emanate from those who have a clear economic stake in the results. Why should the Congress accept what the National Coal Association tells us is essential for the prosperity and well-being of this Nation? I trust that due consideration will also be given to those human beings who are affected adversely by strip mining, and whose lives are being ruined by what is happening to their land and water supply.

TIMETABLE ON ABOLITION OF STRIP MINING

The reason we are so dependent on strip-mined coal today is that the Nation failed to plan 10 years ago for today's energy needs. If strip mining of coal had been banned 10 or 20 years ago, we would still be producing the same amount of coal from the underground mines of the Nation. It will be contended that the price per ton of coal would then be higher, yet I say it realistically should be higher. The present price of strip-mined coal conceals the actual social costs of this form of mining, and in effect society is subsidizing the profits of the strip mining industry by enabling the industry to destroy the soil and water.

Prof. William H. Miernyk, Benedum Professor of Economics and director of the Regional Research Institute of West Virginia University, testified on March 15, 1973, before the Senate Committee on Interior and Insular Affairs:

Clearly, if surface mining were to be abolished tomorrow the Nation would be faced with a severe energy crisis. But even those who advocate complete abolition of surface mining, such as Congressman Ken Hechler from my state, would allow for an adequate period of adjustment.

What is an adequate period of adjustment?

THE SHIFT TO DEEP MINING IS INEVITABLE

The changeover from strip mining to deep mining, as stipulated in legislation which I have introduced, would occur within 6 months where the stripping is done on relatively steep slopes—"contour stripping" where the slope exceeds 20 degrees—and within 18 months where "area stripping" occurs where the slope is less than 20 degrees. In addition, in those Western areas like Four Corners and the Black Mesa where the annual stripping production of individual mines exceeds 500,000 tons, an additional, graduated 3-year extension is provided so that the supply of coal to Southwest utilities is not precipitously affected.

Here is how the timetable will work under the phasing-out proposal which I am supporting:

PHASEOUT TIMETABLE AND SHIFT TO DEEP MINING—1973 PRODUCTION FIGURES

	Million short tons
Total U.S. coal production	591
Total U.S. strip and auger production	289
Contour strip production (20° or steeper)	74
Area strip production (east of Mississippi, less than 20° slopes)	160
Western strip production	55

REPLACEMENT SCHEDULE

	Plus 6 mo	Plus 18 mo	Plus 54 mo
Quantity to be replaced	74	160	55
Sources for replacement:			
1. Cutoff of coal exports (except to Canada)	37		
2. Adding 6th day to existing deep mines	42		
3. Utilizing unused deep-mine capacity (existing)		100–137	
4. Reopening recently closed deep mines		15–20	
5. Introduction of long-wall technology		15	30
6. Opening new deep mines		20–35	80–120

In 1973, the total strip and auger coal production amounted to 289.5 million tons. Of this 289 million tons, 74 million tons, about one-fourth, was produced in the steep slope areas of Appalachia—over 20 degrees. This figure is based on the Council on Environmental Quality study and factors in the 7-percent decrease in Appalachian production which occurred between 1971 and 1972. One hundred and fifty-one million tons were produced in Appalachia and the Midwest on slopes less than 20 degrees. Western strip mines were responsible for 64 million tons of 1973 production, with 55 million of the 64 million being produced on large strip mines of greater than 500,000 tons annual capacity. In terms

of the phaseout then, the scenario is as follows: In 6 months, 74 million tons of strip production will be lost; in 18 months all of the nonsteep slope eastern and midwestern production will be lost—151 million tons—along with 9 million tons of western strip production coming from small mines—less than 500,000 tons annually. The final step in the phaseout will be the elimination of 55 million tons produced by large Western strip mines, over a 4½ year period. This longer time frame is designed to allow the Western deep mining industry, now in its infancy, to develop gradually as a replacement for Western strip mines. Western deep mines, located primarily in Utah, Colorado, and New Mexico, produced just 10 million tons in 1973.

How will deep mining pick up the slack, replace this lost strip production? In the first 6 months, during which steep slope strip mining is gradually being reduced, the shift to deep mining would not be accomplished by opening new mines which, of course, takes more than 6 months. Instead, coal exports to nations other than Canada would be cut off. We presently ship more than 50 million tons of our best quality, high BTU, low-sulfur coal to foreign nations. This coal is primarily metallurgical coal, ideal for producing steel. Some of it is now being used also for producing clean electric power.

Ninety percent of export tonnage is produced in underground mines, 75 percent of the total comes from my home State of West Virginia. A cutoff on exports to nations other than Canada would free approximately 37 million tons of deep mined coal to replace the strip production lost by the contour mining phaseout. The domestic steel industry and several large utilities publicly support the cutoff of exports.

The second source for additional deep mined production would be to add a sixth working day at existing underground mines. The Bureau of Mines recently estimated that 42 million tons of additional underground production could be generated by adding a sixth day with no change in the number of shifts.

UTILIZING UNUSED DEEP MINE CAPACITY

The 18-month phaseout deadline will require the replacement of 160 million tons. The sources for this tonnage are shown in the table above. The major source is the utilization of existing unused capacity in present deep mines. Using U.S. Bureau of Mines figures, if you worked all deep mines on a 3-shift, 5-day-a-week basis instead of the present rate, this would produce 137 million additional tons of underground coal per year. According to Tom Bethell, research director of the United Mine Workers, a figure of 100 million tons would be a more realistic target allowing for downtime and engineering difficulties. From a safety standpoint, there do not appear to be any problems. Steve Liming, former acting safety director for the United Mine Workers of America, has noted that there are already quite a few mines which are operating three shifts per day with no unusual safety problems.

Mr. Liming indicated that the chief need in such speeded-up operations is for sufficient mechanics and electricians to make repairs quickly when mining machinery breaks down. In the interim or pending receipt of new machinery, crews can always be shifted to the type of jobs which are necessary but not immediate, that is, preparing new sections for further mining, or shifting to another area to work on an idle section.

Mr. Liming also added that recruiting new miners is becoming less and less of a problem, and cited the large number of returning Vietnam veterans who are making very good miners with many others eager to go into the mines when needed.

Between 1970 and 1972, 1,575 underground mines closed down. According to Bureau of Mines survey, 752 of these mines closed for reasons other than exhaustion of their coal reserves. These mines had an annual production of 28,940,000 tons in their last year of operation—in many cases the production level for the last year understates the annual capacity of the mine since some closed production levels for below the normal full year production level.

Reopening the 50 largest mines would result in annual production of nearly 14 million tons. With the advent of the energy crisis, many coal companies have already announced plans to reopen previously closed mines. According to the United Mine Workers Research Department, Consolidation Coal, Island Creek, and Pittston all have announced and are in the process of reopening previously closed deep mines. UMWA Research Director Tom Bethell indicated that a projection of 15–20 million tons production from these mines by the end of 1975 would be a good conservative estimate.

EXPANSION OF LONGWALL MINING

A third source of additional deep mine production is the expansion of the use of longwall mining equipment. Longwall mining means removing the coal by a cutting machine which travels from one end of the coal face to the other, biting several feet into the coal seam with heavy steel cutting picks. This is in contrast to the current method of tunneling in with machines like the continuous miner which attacks the face directly at a 90-degree angle.

According to rough preliminary estimates by the Research Department of the UMWA, the introduction of longwall equipment and techniques could expand deep mining production by 15 million tons by the end of 1975. Longwall has been gaining popularity in recent years in this country and is presently responsible for about 2½ percent of annual U.S. production. One of West Virginia's leading producers, Eastern Associated, introduced six new longwall machines in 1973. Company officials predicted that these machines would increase production by 2½ million tons annually. In a recent study, the Bureau of Mines projected longwall annual production of 85 million tons by 1985.

Longwall mining is both safer and more efficient in terms of the percentage of the coal reserve recovered. A row of hydraulically operated steel roof supports—like gigantic jacks—move forward with the cutting machine and the conveyor belt as the coal is sliced from the seam. These jacks virtually eliminate the No. 1 cause of fatalities in conventional deep mining: roof falls.

The annual report of the Kentucky Division of Reclamation for 1972 pointed out that—

> Longwall mining is a much safer method . . . Savings are made in the areas of roof support, ventilation and rock-dusting which can amount to more than 50 cents a ton.

While the longwall equipment is expensive, it offers 85- to 95-percent recovery in contrast to the 57-percent characteristics of the conventional forms of mining.

Longwall mining accounts for 92 percent of the underground coal production in Great Britain, but is only used now in approximately 45 mines in the United States.

OPENING NEW DEEP MINES

The final source of additional deep mine production is, of course, the opening of new deep mines. Large amounts of capital investment are now being committed to the opening of new mines, both deep and strip. According to the United Mine Workers, new mines scheduled to be in full production by the end of 1975 will have annual capacity of 35–50 million tons; 20–35 million tons will be in new deep mines. The leadtime for opening a new deep mine was once listed as 3 to 5 years, but with the sudden leap in demand for coal and more importantly in the spot market price for coal, leadtimes for deep mines have shortened considerably. Thus, at a minimum we can expect 20–35 million tons of new deep-mined production by the end of 1975 and probably more.

Over the 4½-year period during which large Western strip mines will be operating, we can expect a major effort toward opening new deep mines and bringing them to full production. Once the industry realizes that strip mining will be abolished, the capital will flow toward new deep mines. The estimate of 80 to 120 million tons is on the conservative side according to the UMW, but any estimate for this must be considered to be conjectural.

DEEP MINING WESTERN SEAMS OF COAL

It has been contended by the strong advocates of strip mining in the West that it would be impossible to deep mine the very thick seams of coal which are plentiful in western States.

At present, underground mining being carried out in Utah in the Kaiparowitz field is in thick seams of up to 30 feet. Conventional techniques are used, and the coal is mined on several levels. Experience in India, Czechoslovakia, and Germany indicate that there is no major problem with deep mining very large seams. In Czechoslovakia, both longwall and room and pillar methods are used to mine these large seams on several levels. The primary method is room and pillar using continuous mine equipment. The mining of a thick seam can be done

in either ascending or descending order by mining 6-foot sections at a time. These methods prove out to be safer than small seam mining.

Contrary to the propaganda of the western strippers, the Department of Interior has also indicated support for the viability of western deep mining. In its recent publication, "Energy Research Program of the U.S. Department of the Interior," the Department considered two strategies for the major expansion of coal production as part of Project Independence. The first strategy involved maximum reliance on western strip mining; the second involved an expansion of strip and deep production in both the East and the West. Interior concluded that—

We have to rely on underground mining to a large extent, both in the East and in the West.

The Department stated that reliance on strip mining—strategy 1—"would cause rapid regional social and economic changes and exhaust a very high portion of reported surface reserves in both the East and West by the year 2000, threatening rapid decline in surface mine development after the turn of the century." The study projected western deep mine production of more than 200 million tons annually by 2000.

AVAILABILITY OF MINERS

The shift from strip mining to deep mining will require a substantial number of additional underground miners. Deep mining commonly requires 2½ to 4 times the number of workers employed in strip mines to produce the same tonnage. It is true that some strip miners displaced by the phaseout may switch to deep mining but by and large strip miners are construction workers and highly skilled heavy equipment operators. They are far more likely to move into highway construction and housing jobs. What then is the outlook for recruiting new deep miners? A recent Bureau of Mines study carried out by the Institute for Research on Human Resources at Penn State provides considerable insight on this question. The study entitled "The Demand for and Supply of Manpower in the Bituminous Coal Industry for the Years 1985 and 2000," concludes that in the period 1975–2000 "the probability of shortages—of labor—is very remote." The study estimated that labor supply for 1975 would be 184,739 miners. In addition the study identified a supply of 54,868 "potential miners" for 1975. The potential miners category includes "persons who were miners at some time prior to 1970 but were employed as nonminers during 1970, as well as other persons who might choose employment in the coal mining industry if working conditions were sufficiently better than those of the next best alternative." The combined labor pool for 1975 would thus be 239,607 miners; 107,808 men were employed in underground mines in 1970, the most recent year for which comprehensive employment statistics are available. Phasing out strip mining and replacing the lost tonnage completely with deep-mined coal could, at its most severe impact, require double the present number of deep miners. The available labor pool for 1975 would be more than adequate to cover this demand.

The energy crisis has also spurred new interest among students in pursuing careers in mining engineering. Schools of mines show sharply increasing enrollments. Last year's crop of graduates was "the largest since 1955" according to Engineering and Mining Journal. And this year's is even larger.

LEADTIMES FOR OPENING MINES AND OBTAINING EQUIPMENT

It is often assumed that new strip mines can be opened much faster than new deep mines. However, according to research conducted by the Library of Congress, this is not the case. The Library study cites strip mine leadtimes of 4 to 5 years as compared with 2 to 4 years for new deep mines. Backlogs of orders for the giant shovels and draglines—which are manufactured by only two companies in the United States: Marion Power Shovel and Bucyrus Erie—and the time required to assemble the equipment once the parts are delivered to the minesite were listed as major factors in the long strip mine leadtimes.

This change in leadtimes has also been shown in announcements for new mines opening in West Virginia and eastern Kentucky. More than a dozen major new deep mines have been announced in the last few months; all are slated to reach full production by 1976 at the latest, some indicating partial production will begin immediately. Similar announcements for strip mines have not been forthcoming, probably because of the difficulty of obtaining equipment.

No such equipment problem seems to face deep mine operators. A Library of Congress survey found that deep mining equipment leadtimes ranged from a few months up to 1 year depending on whether or not the equipment was custom made. Joy Manufacturing Co., the leading underground mining equipment manufacturer, listed 5 to 6 month delivery times. In a recent letter to me, Joy President Jim Wilcock stated:

I think we are doing pretty well in accommodating our customers in what they want.

From this survey, it appears that equipment companies could provide the necessary equipment to make the shift from strip mining to deep mining. The energy demands have already led to stepped up equipment production.

COST OF OPENING NEW UNDERGROUND MINES

The time required and the cost involved for the development of a new deep mine vary widely because of the number of factors involved. The major factors are depth of the coal seam, thickness of the seam, uniformity, and quality of the seam, roof characteristics, and amount of methane gas likely to be liberated during mining. Depth of the seam determines whether the mine will be a drift, slope or shaft mine.

Initial capital investment costs differ substantially for different ranks of coal and for annual production capacity. Recent Bureau of Mines studies of costs for hypothetical mines are difficult to compare because studies of strip and deep mines were conducted in different years and are thus based on fixed costs of significant difference. Inflation in the coal industry, particularly in the last year, has been incredible. The selling price of coal has risen tremendously in the last 6 months. However, certain general principles can be gleaned from these dated studies. Initial capital investment for large deep and strip mines are virtually identical—in some cases, initial capital investment is actually lower for the same-sized deep mine. This surprising fact can be explained by the knowledge that deep mining is labor-intensive while strip mining is primarily capital intensive. For example, capital investment for a 1 million ton annual production, 72-inch seam eastern bituminous strip mine run $12,727,500. For the same size eastern bituminous deep mine, the investment figure is $12,540,000. For a $3-million ton, 72-inch seam eastern bituminous strip mine, the initial capital investment figure is $28,005,000 in contrast to the same sized eastern deep mine figure of $29,711,000. Given the fact that the Bureau's study of strip costs is based on 1969 prices whereas the study of deep costs is based on 1971 prices, it is clear that deep mines do require less initial capital investment. Of course, the advantage enjoyed by strip mining comes from the fact that operating costs per year are much lower for strip mines—output per man day on strip mines is three times that of deep mines.

The fact that initial capital investment is lower for new deep mines than for new strip mines has important implications for the question of availability of capital for a shift to deep mining after stripping has been abolished. Clearly, the money slated for the development of the huge western strip mines could easily be shifted to cover the capital requirements of new deep mines. This would be true as well for strip mines planned in other areas. Moreover, banning strip mining would shift demand to the extensive deep mine coal reserves. It is a time-tested fact that capital will flow wherever a sound rate of return can be expected. The costs cited in the Bureau of Mines study all assumed a 12-percent annual return—more than enough to encourage development of new deep mines. Given the high projected future demand for coal, the expected annual return would become higher and long term utility contracts would become available. Hence investment in deep mines will become very attractive.

The coal industry itself could be expected to come up with major amounts of capital investment. We must remember that 12 of the 15 largest coal producers are subsidiaries of larger conglomerates—primarily oil and steel companies. The 1972 profits picture for the coal companies and their parent corporations was outstanding; 1972 profit levels ranged from a low of $2.6 million registered by North American Coal to a high

of $28 million chalked up by Pittston. The parent corporations did even better with Gulf Oil, the parent of Pittsburg and Midway, racking up an amazing $447 million in profits; Continental Oil—Consol—$170 million. United States Steel $156 million and Bethlehem Steel $134 million. In addition, all of the subsidiaries showed increases in profits in the first quarter of 1973. The profits picture leaves no doubt that the capital is readily available for a shift to deep mining.

Nor is there a lack of expertise for this shift either on the management level or the operations level. Of the 15 largest coal producers, 14 operate underground mines—only Utah International is purely a strip mining outfit. A ban would simply mean that these major producers would expand their deep mine operations.

WESTERN COAL AND THE EAST-WEST SHIFT

Western strippable coal, of which there is an ample supply of 29.9 billion tons of the low-sulfur variety, is a very attractive market. The huge coal seams, the cheapness of the land, the shallow extracting by gigantic machines combine to place the FOB mine price in the $2 to $5 per ton range—a fantastic bargain.

In another section of my testimony, I shall analyze in depth the issue of reclamation of strip mined lands in the West as contrasted with an Appalachian region.

For the moment, let us examine the quality and attractiveness of western strippable coal. Unfortunately, western strippable coal has a much lower Btu level and high ash and water content. This was discovered when the TVA purchased a large quantity of western coal for its Johnsonville, Tenn., plant. On November 12, 1972, the TVA issued a public statement that the high water content of the western coal "has shown major operating problems in addition to the very high transportation cost involved." In short, the large amount of water in western stripped coal gummed up the TVA boilers, and henceforth they contracted for coal shipped from underground mines in Indiana. Most eastern plants are also equipped to burn low-water content coal, so this problem is likely to recur if massive shipments are contemplated.

STRIPPERS ARE STREAKING WESTWARD

However, major utilities such as American Electric Power, and major oil companies and energy conglomerates like Exxon are rushing into the West to grab up all available strippable reserves. What motivates this new coal rush? If this coal is low quality, why the tremendous interest? Western coal offers several attractions to these corporations. First, strip mining in the West requires few workers and generally does not require the operator to deal with unions. Output per man-day far exceeds anything achieved in the East, deep or strip. Second, western mining offers huge blocks of contiguous coal reserves. In the East, ownership of reserves is diverse; it is difficult to line up large blocks of reserves. Third, most western seams are quite thick compared with eastern coal seams; 75–100-foot seams are relatively common. This means that acreage disturbed for a given amount of production is far less, and reclamation cost is thus less of a factor. Further, overburden tends to be shallow and overburden ratios are very favorable. Fourth, western railroads are in far better shape than their brothers in the East. This makes transportation reliable, though expensive. Finally, the demand for low-sulfur coal resulting from implementation of the Clean Air Act makes western coal desirable because of its relatively low-sulfur content.

The sulfur level of western coal deserves closer scrutiny. As mentioned, western coal contains large amounts of water, up to 10 times the moisture content of eastern coal. Drying the coal for use in eastern boilers reduces the mass and thereby increases the percentage of sulfur content above acceptable levels. Moreover, given its low Btu value it takes 1½ to 2 tons of western coal to produce the same amount of heat generated by 1 ton of eastern coal. Yet massive plans have been drawn for the shipment of western coal to eastern markets. Both American Electric Power and Amax have announced plans to ship western coal to plants as far east as West Virginia. Rail transportation cost is high, but given today's sharply increasing coal prices, not high enough to price western coal out of eastern markets. A recent Bureau of Mines study cited unit train costs of $0.004–$0.005 per ton per mile which translates into $10 and up transport cost to eastern markets. However, many public service commissions allow direct passthrough to the consumer of any transport costs for fuels.

A new study by Michael Rieber of the University of Illinois at Urbana entitled "Low Sulfur Coal: A Revision of Reserve and Supply Estimates," points out that on a heat content basis, 55 percent of the recoverable low-sulfur reserves are located east of the Mississippi, primarily in West Virginia. What then is the key factor in the western coal rush? While the issue is complex, it appears the key factor is the control of large blocks of reserves. This control allows the holder the opportunity to sign long-term contracts and guarantee substantial return on his investment. Moreover, these large blocks are both ideal and necessary for the construction of large-scale energy conversion complexes—that is, coal gasification, coal liquefaction, and mine-mouth powerplants.

IMPLICATIONS OF THE EAST-WEST SHIFT

A major shift to the West will have a disastrous effect on the eastern coal industry. Bureau of Mines and Interior Department studies project serious negative impacts for the eastern industry if western stripping escalates sharply. The Bureau stated in a recent study:

> In the event of a major move of coal mining to the West, employment (mining) in all Eastern states should decline, with Pennsylvania and West Virginia experiencing the largest declines.

Interior also pointed to the disastrous effect of a boom-bust economy in the West. The traditional ranch life style will be shoved aside by an industrial boom that will peter out after the turn of the century. The tremendous impact on existing communities will be unprecedented. At the same time, industry will be moving away from Appalachia and the Midwest. As the energy conversion facilities develop, support industries will also develop. Trailer camps and honky tonks will replace the wide-open spaces. Phasing out strip mining is the only way to arrest this development and its consequences.

STRIP MINING AND REGIONAL ECONOMIC DEVELOPMENT

The East-West shift issue points to a basic area often ignored in the debate on the pros and cons of strip mining: Strip mining's relation to regional economic development. Prof. William Miernyk, director of the Regional Research Institute at West Virginia University, in a definitive study entitled: "Environmental Management and Regional Economic Development," has established that "the environmental damage from strip mining may undermine the entire regional economic development effort." Miernyk points out that in the case of Appalachia, the Appalachian Highway Development System is designed to open up possibilities for tourism and light industry as well as facilitating transportation of timber and coal. Miernyk concluded:

> The continued expansion of strip mining could easily offset the developmental impact of the Appalachian Highway System.

This analysis clearly has application in other areas threatened by strip mining. Few industries are likely to relocate in areas with contaminated water supplies, continual dangers of flooding, and blighted landscapes.

A recent study entitled: "Opportunity Costs of Land Use: the Case of Coal Surface Mining" by Robert Spore, an economist at the Oak Ridge National Laboratory, underlines Miernyk's conclusions. The study found that the value of strip mining all the coal along the Big South Fork of the Cumberland River in eastern Kentucky and Tennessee would total $13,906,000 while the recreational value of this area totaled $42,-620,000. In short, the costs in terms of lost opportunities for recreation and tourism would be more than three times the value of all the coal in the area. All of this economic and recreational benefit to the people would be lost forever if stripping were permitted. This pattern of lost opportunities is already the rule in some arts of Appalachia—only abolition will stem the tide.

Dr. Robert Smith of the West Virginia University School of Forestry in testimony before the Senate Interior Committee last March, pointed out how strip mining is ruining the hardwood timber industry in Appalachia. Smith stated that strip mining—

> So disrupts the environment that it appears impossible for any forest regrowth in the foreseeable future. The rich sites are either destroyed directly by strip mining or else they receive the brunt of overburden

and siltation from the stripping at higher elevations.

In short, strip mining is totally incompatible with timber, tourism, and industrial development. It is crucial to note that deep mining is quite compatible with these alternate land uses, while at the same time offering more plentiful supply of coal.

The situation in the West adds still another lost alternate land use to this equation.

Given the poor possibilities of reclamation in the West and the tremendous danger to ground and surface water supplies—which I shall discuss in more detail shortly—the lands of the West will no longer be useful as grazing land once they have been stripped. This will have a major and oft overlooked effect on the Nation's supply of beef and grain. North Dakota, for example, ranks first in the Nation in the production of spring wheat, durum wheat, and barley, yet if strip mining is permitted it will mean the loss of between 10 and 20 percent of the State's grain production. At a time of growing worldwide food shortages, we must ask whether we can afford to strip these lands—especially when the coal could be mined through underground methods without sacrificing the productive value of this land.

RECLAMATION IN GREAT BRITAIN AND GERMANY

There have been many studies of reclamation in Germany and in Great Britain, where strip mined coal constitutes less than 10 percent of the total coal production, in contrast to over 50 percent in the United States. There are some clear-cut differences between the land use ethics of Great Britain and Germany, where long and careful public planning precedes any attempt at strip mining—the pell-mell rush to strip which occurs in this country is unknown in Europe.

Under our cowboy capitalist approach to mining, we have placed heavy emphasis on how you extract the minerals from the ground in the quickest and cheapest fashion. Coming from a State which specializes in extractive industry, I regret we also have had a few extractive politicians, as in Maryland, who took out more than they put in, with very little reclamation, but that is another story. Throughout the mining industry, "reclamation" has become a recent craze, but it is sharply different in outlook than in Great Britain and Germany where true reclamation means reforestation and a thorough and intelligent restoration of the land. All too often esthetics are the ruling yardstick of reclamation success in this country.

The extensive study, "Surface Mining and Land Reclamation in Germany," by E. A. Nephew of the Oak Ridge National Laboratory indicates that costs of reclamation in Germany amount to between $3,000 and $4,500 per acre, while in Great Britain they may run as high as $7,179 per acre but average out close to $4,000 an acre.—The cost per ton ranged from 63 cents to $4.24/ton and averaged $1.35/ton for all British reclamation efforts. The topsoil and subsoil is carefully segregated, and later replaced, and rehabilitation of the land by experts in agriculture and forestry may take as long as 5 years following the mining operation.

DISMAL RECORD OF RECLAMATION IN UNITED STATES

The record for reclamation in this country is a dismal one. This is not due entirely to the lack of effort on the part of those operators and specialists charged with reclamation. There are a number of very serious problems with reclamation in this country which are not encountered in Germany and Great Britain. The critical environmental variables for reclamation are slope, sulfur content of coal and shales, acid-alkali balance in spoils, amount of rainfall, depth and thickness of the coal seam, and thickness of the coal seam, and amount and quality of the topsoil. In Appalachia, the combination of steep slopes, pyritic shales, heavy rainfall and thin topsoil combine to create monumental problems of erosion, sedimentation, landslides and acid drainage. The relatively flat, acid-free lands of Germany and Britain present no such difficulties.

Dr. Robert L. Smith, professor of wildlife biology, Division of Forestry, West Virginia University, recently stated:

In the southern mountains, it is obvious to anyone who views strip mine reclamation that reclamation is not successful, nor is the land being restored. It is impossible to put the excavated material back and to re-establish any semblance of previous ecological conditions." Dr. Smith points out that hydroseeding and heavy fertilization can produce some vegetation, but this is generally short-lived. He states that "on no slopes can grass stabilize the soil." Reforestation is not even attempted on the steep slopes.

WEST VIRGINIA RECLAMATION

A great deal of the land in West Virginia and central Appalachia consists of steep slopes, heavy rainfall, thin topsoil, with acid from pyritic shales more serious in northern than southern West Virginia. The Stanford Research Institute was commissioned to study strip mining by the West Virginia State Legislature, and this study did not recommend abolition but pointed out some significant facts. Analyzing the 248,078 acres of land "disturbed" by strip mining as of October 1971, the report estimated that only 69,648—slightly over a quarter of the acreage—had achieved 75 percent vegetative cover. Even more significantly, the study indicated that if the acreage which had not achieved 75-percent vegetative cover, 60 percent had at one time been reclaimed to this standard either by the operator, the U.S. Soil Conservation Service of the reclamation fund maintained by the State. This means that nearly two-thirds of all reclamation in West Virginia has failed to maintain itself. This means that of the most barren lands which lack 75 percent vegetative cover, 6 out of every 10 acres had once been "officially reclaimed" but backslid into barren lands.

In its final report to the State legislature, the Stanford Research Institute grimly concluded the following about the cost of reclamation in West Virginia:

Returns for such expenditures have been disappointing in the past, as reclamation work has not eliminated environmental effects of surface mining from most areas.

It was further concluded that so-called reclaimed land still held the danger of landslides, and yielded "from 400 to 600 tons of sediment per acre of spoil bank—annually." It was calculated that each new year of strip mine production in West Virginia adds 6 to 10 million tons of new sedimentation into the State's streams and rivers.

The study concluded:

By 1980, the cumulative effect of leaching could yield roughly 3 million tons of dissolved solids from spoil banks.

Two recent studies underline the mammoth reclamation problems presented by mining in the mountains. A 1973 Senate study, "Factors Affecting the Use of Coal in Present and Future Energy Markets," pointed to the serious continuing problem of landslides on steep slopes and repeated violations of State regulations. Citing experience in eastern Kentucky, the Senate study stated:

For all types of mountain strip mining, more than one third of the inspections revealed major violations including, for instance: exceeding bench width, operating off permit area, dumping excessive material over the outslope, and lack of drainage controls.

The following table and comment also appears in the Senate study:

TABLE 7.—PERCENTAGE OF OFFICIAL STATE INSPECTIONS IN WHICH ONE OR MORE VIOLATIONS FOUND AND RECORDED IN EASTERN KENTUCKY STRIP MINE OPERATIONS, 1971

Mining method:	*Percentage of inspections*
Conventional contour	43
Slope reduction	50
Parallel slope fill	34
Head of hollow fill	49
Pit storage of spoil	41
Mountaintop removal	47
Mountain auger	42

The significance of this is further emphasized when it is recognized that most damages from such violations cannot be remedied; the operator usually agrees to stop activities which are in violation and to avoid such practices in the future. This evidence reinforces the concept that certain surface mining practices cannot be regulated satisfactorily, and in these instances, the best answer is to prohibit those specific activities.

A second study, "Design of Surface Mining Systems in Eastern Kentucky," carried out by Mathematica, Inc., for the Appalachian Regional Commission, found landslides and sedimentation to be continuing major problems in mountain mining. Mathematica stated: "Landslides are still a widespread problem in eastern Kentucky."

The study also found that revegetation was not adequate to control sedimentation. Sedimentation was particularly heavy during ongoing operations; vegetation had little effect until the third year of plantings. Use of silt dams was suggested as a possible solution but Kentucky Natural Resources personnel indicated that such dams often created more

problems than they solved. Construction of the dams caused "substantial environmental disturbance" and the dams presented a safety and environmental hazard, particularly once maintenance by the operator ended at the completion of reclamation. In short, a technological fix to the landslide and sedimentation problems has not been fully developed. Combining the technical problems of reclamation with the myriad enforcement problems—amply documented by the Mathematica study—one must conclude that real reclamation in the fullest and permanent sense is not possible in the mountains.

ACID DRAINAGE PROBLEMS

In flatter areas, vegetation can be partially successful and could be a step in the process back to forestation. However, the basic problem with flatland reclamation in the East and the Midwest remains that of controlling acid drainage and the leaching of toxic materials. Dr. Moid Ahmad of Ohio University, an eminent hydrologist, has shown conclusively, that so long as acid-causing pyrites are present in the overburden, no reclamation procedures can successfully stop acid drainage. Vegetation in no way insures an end to the acid drainage problem. A 1970 study conducted by Dr. Sutton of the Ohio Department of Natural Resources entitled, "Reclamation of toxic coal mine spoil banks" has found that even the heavy use of fertilizers was ineffective in neutralizing acidity. Lime applied at a rate of 42 tons per acre was ineffective. Unless the acid can be eliminated, vegetation will decline and reclamation will be reversed thus creating a new orphaned land, complete with all the original environmental problems of unreclaimed land.

A 1971 Case Western Reserve University study entitled, "Ecological Effects of Strip Mining. A Comparative Study of Natural and Reclaimed Watershed" compared two watersheds in Belmont County in southeastern Ohio, one of which had not been stripped, the other which had been stripped and reclaimed in 1968 by the Hanna Coal Co. The report states:

The water draining from the mined and reclaimed watershed is highly acidic, having an average pH of 3.5. In contrast, the water draining from the natural system is neutral or slightly basic, having an average pH of 7.9. . . . In the affected system, Fe (iron) was found in concentrations greater than 400 times that found in the natural system, SO_4 (sulfate) averaged 56 times that of the natural system, K (potassium) 2.8 times, Ca (calcium) nine times, Mg (magnesium) 30 times, Mn (manganese) over 1,320 times, and Al (aluminum) was found to be over 3,000 times that of the natural system. These large amounts of ions produced high concentrations of dissolved solids. Average dissolved solids of the affected systems were 90 times that of the natural system.

CHEMICALS RELEASED BY STRIP MINING

The report drew the following conclusions:

1. Three years after reclamation one finds that the affected area cannot support plant or animal life.

2. Geologic formations high in sandstone must be reclaimed by better methods or should not be strip-mined at all.

3. The acid condition produced by strip-mining releases amounts of minerals and nutrients which are toxic to plant-life.

4. The highly dissolved chemical load entering Piedmont Lake from the affected area is rapidly increasing the eutrophication processes in the lake, and thus it is altering and destroying lake habitats.

HIGH COST OF "RECLAMATION"

In short, good reclamation like that found in Germany can only be accomplished on flat areas free of pyritic and other acid-causing materials. And, this can only be accomplished through careful, comprehensive land use planning, strict performance standards for the reclamation process, full public access to the planning process, a continuing program for revegetation and forestation over a 5- to 10-year period after completion of initial reclamation efforts, and above all a major commitment of money in the neighborhood of $4,000 per acre such as the Europeans have put forth.

Nephew sums up the German approach philosophically:

Probably the most compelling reason for farmland restoration, however, is the prevailing conviction that to allow valuable soil to be irrevocably destroyed by a strictly temporary land use—mining—would present extreme folly.

RECLAMATION IN PENNSYLVANIA

The Pennsylvania law and the Pennsylvania reclamation methods have been widely touted as the solution to the Nation's strip mining and reclamation problems. The slopes are not as steep in Pennsylvania as in West Virginia. Even though the State law requires backfillings of strip-mined areas to their original contour and enforcement of the strip mining laws seems to be more stringent than most States, reclamation has been largely a failure in dealing with the problem of acid pollution from strip mining spoils.

A study completed by the Pennsylvania State University College of Earth and Mineral Sciences shows that a majority of strip mines in seams surrounded by highly acid shales discharge acid water in excess of the State water quality standards, regardless of the method of reclamation employed—50 to 67 percent of such strip mines which were regraded to original contour failed to meet water quality standards; 71 to 94 percent of such strip mines which were partially regraded failed to meet water quality standards.

THE BLOCK CUT TECHNIQUE OF STRIP MINING

Pennsylvania has introduced a new form of stripping known as the "block cut," which is designed to restore the mined land to its original contour by dumping the first cut on the downslope and then dumping subsequent cuts into the hole created by the first cut. This technique involves the segregation of the topsoil and the burial of the most toxic and acid producing strata in an effort to minimize their adverse effect. Reclamation is attempted concurrent with the mining operation.

The major advantage offered by the block-cut technique is that it can eliminate a majority of the downslope spoil dumping, thus cutting down on landslides. However, the first cut is still placed on the downslope and this cut must be quite large to allow space for the equipment to operate. Dumping of this first cut creates a large spoil bank which is subject to the monumental problems of landslides, erosion, and heavy sedimentation.

It should be recognized that the block cut is basically an earth-moving technique. As such, it cannot overcome the very serious problems of slippage, acid drainage and the leaching of toxic materials. While it can reduce general erosion and sedimentation, it does not eliminate these problems nor does it insure revegetation. It has never been proven feasible in the steep-slope areas of central Appalachia—only on the shorter, more gentle slopes of Pennsylvania has it been at all successful. Although a modified block cut has been attempted by Hobet Mining Co. in my congressional district—Mingo County—it is done while retaining the high wall. In fact, both coal operators and State officials have indicated that the block-cut method is too expensive in the steep mountains of West Virginia. At best, the block cut is an improvement over other reclamation techniques, but it falls far short of being a solution to the problems of reclamation.

RECLAMATION OF WESTERN STRIPPED LAND

The western lands are characterized by very thin topsoil, low rainfall, alkali and sodic spoils—no acid-producing materials—and the general scarcity of water. This has led many to the false conclusion that without much rainfall or acid-producing material, and fairly level land, strip mining in the West does not face the gigantic problems of reclamation confronted in Appalachia.

Dr. Robert Curry, assistant professor of geology at the University of Montana, testified before the Senate Committee on Interior and Insular Affairs that—

The ground surface, once disturbed in the West, cannot recover to its present state of succession or vegetation without extremely long periods of geologic time—many times longer than we might expect man to inhabit the earth.

He added:

In the West, unless precious water is imported and the sites are watered on the order of 200 to 2,000 years to simulate the naturally wetter conditions during the soil-forming periods, reclamation to the point of self-sustenance is impossible . . . When one considers the rising costs of water and fertilizer, and the rising values of sustained water quality, I estimate that ultimate costs of reclamation in the West are 10 to 100 times as great as those on steep, contour-stripped lands in the southeast.

I will now quote the final statement of Professor Curry in which he took a swipe at me, demonstrating that reclamation of strip-mined land in the Western States is far more serious than in my Appalachia:

The oft-spoken threat that Colorado, Wyoming and Montana coal areas will become another Appalachia, as Representative HECHLER said the other day, is, I believe, a deceptive statement because the situation in the Western States is, in fact, somewhat

worse from the standpoint of reclamation alternatives, economic base, potential losses of water and land value.

NATIONAL ACADEMY OF SCIENCES STUDY

"Rehabilitation Potential of Western Coal Lands" is a landmark study prepared under the auspices of the National Academy of Sciences. This study underlines the danger of launching a big coal rush to strip mine western lands. It also indicates the very real threat which coal gasification plants will pose to the limited water supply in these western areas. Plans have been rushed forward to combine massive strip mining with giant coal gasification plants in the West.

The National Academy of Sciences study concludes:

1. "Pertinent data for rehabilitating mined land are virtually nonexistent. The necessary research has barely begun."

2. "Because water requirements are a major problem in western areas, water consumption and related on and off site environmental impacts that would result from conversion of coal by gasification, liquefaction or its use for electricity generation could far exceed the impacts from coal mining alone. . . . not enough water exists for large-scale conversion of coal to other energy forms. The potential environmental and social impacts of the use of this water for large scale energy conversion projects would exceed by far the anticipated impact of mining alone. We recommend that alternate locations be considered for energy conversion facilities and that adequate evaluations be made of the options (including rehabilitation) for the various local uses of the available water."

3. "The time required for this process of succession to heal the scars of a severe disturbance in desert and sage brush foothill areas may be decades and even centuries. Even when the best of proven techniques are applied in such desert areas, the potential for approaching the conditions and values of the original ecosystems is low."

4. (In foothill zone of the Rocky Mountains), "Steep slopes, south and west exposures and infertile soils can present insurmountable rehabilitation problems even when the best methods are diligently followed."

5. With respect to desert areas, broad valley basins and local areas among low hills, ridges and mesas), "The probability for successfully rehabilitating such areas is extremely low . . . Disturbing such areas for surface mining of coal amounts to sacrificing such values permanently for an economic award."

6. "The chances of approaching the original ecosystem are only moderate even on the best of sites and there is no probability of complete restoration anywhere."

7. "For much of the western coal region, the rates of erosion are among the highest in the nation, and soil is commonly lost through erosion and flash flooding."

8. "Surface mining activities may disrupt ground water flow patterns and interrupt traditional sources of water supply."

WATER—THE KEY VARIABLE IN THE WEST

In evaluating reclamation in the West, it is crucial to examine both the onsite and offsite impacts of mining on ground and surface water systems. While seemingly successful reclamation may be carried out at a particular site, a full understanding of the hydrologic situation is necessary before the reclamation can truly be evaluated. The key areas to be affected by strip mining are the aquifers, alluvial valley floors, and stream channels. The National Academy of Sciences study addresses itself directly to the water issue. Let me summarize the direct and indirect effects as spelled out by the NAS study:

In most areas of the West, the strippable coal seam serves as the aquifer, the water-carrying underground strata. This accounts for the high moisture content of western coal discussed earlier. Strip mining a coal seam aquifer can result in the following direct effects:

Groundwater supplies upslope and downslope from the cut may be depleted either temporarily or permanently, disruption of ephemeral stream channels below the site, and change in the quality of water either through an increase in total dissolved solids or an increase in sediment load.

NAS states that:

It is not known to what extent the aquifer characteristics of the stratum formerly occupied by the coal seam might be restored.

Piping the ground water out of the mining pit as is done at the Amax operation near Gillette, Wyo., can result in major channel erosion, channel deepening, and sedimentation problems. As the Interior Committee report on pending legislation points out:

Deepening of the channel often results in lowering the ground water level.

These changes have very grave ramifications for beef and grain production in the West.

Erosional problems become even more significant where alluvial valley floors are involved. Alluvial valley floors are unconsolidated deposits formed by streams where the ground water level is so near the surface that it directly supports extensive vegetation. Alluvial valley floors receive water from surrounding areas and are thus capable of sustaining vegetation well in excess of what would be expected based on the precipitation levels in the area. These areas are the key hay meadows for cattle production. NAS states:

The unconsolidated alluvial deposits are highly susceptible to erosion. Removal of alluvium from the thalweg of the valley not only lowers the water table but also destroys the protective vegetation cover by draining soil moisture.

The House Interior Committee in its report even concedes—

That efforts by the Federal government to rehabilitate alluvial valley floors which have been denuded and damaged have been very expensive, of long duration, and only partially successful.

Thus, mining of these areas would mean the loss of vital grazing land—perhaps permanently. This is what is at stake in strip mining western coal.

The Academy study summarizes the offsite impacts of strip mining as well:

(1) changes in volume of surface flow, both increases and decreases; (2) loss of groundwater; (3) deterioration of water quality; and (4) channel changes caused by an increase in sediment load; (5) destruction of aquatic habitats; and (6) increase in endemic diseases among users of water that has been contaminated by mining.

Recent data from a Montana Bureau of Mines study of Decker Coal Co's. operations at Decker, Mont., have confirmed the NAS conclusions concerning the effect of ground water levels. Wells within a quarter mile of the operations have dropped 20 feet in the last year; wells within a mile and a half have dropped 10 feet on the average.

And western strip mining has only just begun.

Can we afford to sacrifice productive land for what Gov. Arthur Link of North Dakota has aptly described as a "one-crop harvest"? Are we willing to sacrifice the land and life style of the West for this stripped coal when we can preserve the land and life style while deep mining the coal?

SAFETY RECORD IN UNDERGROUND MINES

To be sure, there are more accidents in deep mines, but a close look at the accident records of the major companies proves that this does not have to be the case. U.S. Steel, which operates only captive mines and produces 99 percent of its coal through deep mining, has by far the best safety records of any coal company. Similarly, Bethlehem Steel, which operates largely deep mines, ranks second in injuries and third in fatalities. This shows clearly that if a commitment is made to safety, deep mines can become safe. Here are the data on the 10 biggest producers from 1968 to 1971:

INJURIES PER MILLION MAN-HOURS

(Numbers in parentheses refer to rank of largest producers)

United States Steel mines (4)	2.72
Bethlehem Steel mines (10)	12.27
Consolidation Coal (2)	18.68
General Dynamics mines (6)	38.74
Peabody Coal (1)	46.91
Old Ben Coal (9)	47.40
Amax Coal (8)	48.23
Pittston (5)	56.57
Eastern Associated Coal (7)	62.51
Island Creek Coal (3)	72.13

The differences are less marked but still significant when fatality rates are compiled.

FATALITIES PER MILLION MAN-HOURS

United States Steel mines (4)	0.28
Amax Coal (8)	.35
Bethlehem Steel mines (10)	.44
Eastern Associated Coal (7)	.53
General Dynamics mines (6)	.72
Island Creek Coal (3)	.85
Peabody Coal (1)	.94
Old Ben Coal (9)	1.07
Pittston (5)	1.10
Consolidation Coal (2)	1.52

Particular note should be made of the Peabody figures: 80 percent of their coal production comes from surface mining, yet their accident record is poor. The good safety record of the captive mines stems from the fact that they have a strong commitment to safety—which is exhibited in their steel operations as well—and they are free from the competitive pricing pressures of the marketplace which push other deep mine companies to cut corners on safety. Abolition of strip mining would eliminate these pressures particularly in the case of marginal operators. It thus would allow deep mine operators to make the necessary financial commitment to safety.

Data for 1972 follow basically the same pattern as that for the period 1968–71. Again United States Steel and Bethlehem Steel underground mines rank one and two in lowest frequency of injuries per million man-hours, 5.30 and 8.97 respectively—note that for 1972 data was avail-

able separating deep and strip operations of the major producers. In comparison, Consolidated Coal's strip mines which ranked first among strip mines in lowest frequency of injuries, 18.31 per million man-hours, lagged well behind the steel company deep mines record. Of particular interest is the fact that Bethlehem's strip mines registered a 29.61 injuries per million man-hours rate, nearly four times higher than that compiled by their sister deep mines.

In the fatalities per million man-hours rankings, seven of the top nine underground mining companies showed lower fatality rates than the two leading strip producers, Peabody and Consolidation. Peabody and Consolidation strip mines had identical 0.61 fatality per million man-hours rates which were exceeded only by Old Ben deep mines—0.62 and by Consolidation's own deep mines—1.14—which were the most dangerous mines in the industry from a fatalities point of view. These statistics certainly cast doubt on the common assumption that strip mining is much safer than deep mining. Moreover, the combination of the good safety record of captive deep mines and the good safety records of European underground mines shows that deep mining can become a much safer operation.

Once again in 1973, United States Steel and Bethlehem Steel ranked Nos. 1 and 2 in safety. United States Steel's industry leading injury rate of 6.49 and Bethlehem's rate of 7.67 were far below the 38.26 posted by Pittston's strip mines, the 53.46 injury rate posted by North American strip mines, and the 20.03 rate posted in the strip mines of the Nation's No. 1 strip producer, Peabody Coal Co. In fact, large strip mining operations appear to be more dangerous than many deep mines. In 1973, the fatality rates on strip mines operated by the top two strip producers, Peabody and Consolidation Coal, were 0.47 and 0.45 fatality per million man-hours respectively. This is virtually identical to the industrywide rate of 0.50 scored by all underground operations in 1973. In short, large-scale strip mining is dangerous indeed.

And the trend toward increasing danger in strip mining seems to be continuing. In the first 4 months of 1974, the fatality rate for strip mines was 0.53, substantially higher than the 0.35 posted by deep mines nationwide during the same 4-month period.

EFFICIENCY IN COAL RECOVERY: DEEP AND STRIP

Strip mines are not necessarily more efficient in recovering all the coal in the area disturbed. Directly beneath the cut, strip mines will characteristically recover 90 percent of the coal. When auger mining is associated with strip mining, the augering recovers only 30–50 percent of the coal, reducing overall efficiency to around 60 percent. Whether or not augering is used, a solid block of coal must be retained between the strip cut and any future deep mine, further reducing efficiency. Even in area stripping, such solid blocks are commonly left where the overburden becomes too deep. Therefore, strip mines may range in efficiency of coal recovery from about 40 to 90 percent, with contour stripping on steep slopes being the least efficient.

In other ways, strip mining may directly injure the efficiency of subsequent deep mining. Heavy blasting characteristically associated with strip mining in rocky terrain may fissure rock strata above deeper coal seams and create new roof support and water drainage hazards for subsequent underground mining. Extensive strip mining of near-surface seams may so disfigure and destroy an area as to make future access and future human habitation difficult or impossible.

This is a distinct threat in areas like Boone County, W. Va., where removal of the 6.5 percent of the coal which can be strip mined would leave the land surface totally destroyed, making subsequent deep mining of the remaining 96 percent of the coal reserves difficult and in some cases impossible.

The U.S. Bureau of Mines estimates that underground mining recovers 57 percent of the coal affected by mining. However, new technologies, particularly "longwall mining" can increase that recovery rate to 85–95 percent. The application of these technologies in the United States has been slowed by the stagnation and price pressures on underground mining for which strip mining is primarily responsible.

ABOLITION OF STRIP MINING AND THE COST OF ELECTRICITY

What is the effect of the increase in the price of electricity which would result from the abolition of strip mining?

I have asked the Congressional Research Service of the Library of Congress to prepare an analysis of this comparison in rising costs, which follows:

A ban on contour and auger mined coal would require the replacement of 50 million tons of such coal currently supplied to utilities (source: Bureau of Mines). A ban on all strip-mining would require the replacement of 214 million tons of strip-mined coal currently supplied to electric utilities. According to the Federal Power Commission, during the third quarter of 1972, the delivered price to utilities of deep mined coal was $9.40 per ton; the delivered price of strip-mined coal was $7.71. Thus, replacing the 214 million tons of strip-coal supplied to utilities in 1972 with deep mined coal would mean an increase of $361.7 million in delivered fuel costs to utilities, assuming that alternate fuel sources are either more expensive or unavailable. If this increase were all passed on to consumers of electricity, what would it mean to the average family's electricity bill? Just under one third of all electricity was consumed by residential users in 1972. Assuming that all rate payers are equally affected—which is an over-simplification, approximately $120 million of the increase in fuel costs will be passed on to residential users. There were more than 65 million residential users in 1972. Therefore, a ban on strip-mining would mean—taking the above assumptions in consideration—that the average family's electric bill would rise $1.80 annually or 15 cents per month.

ENVIRONMENTAL DAMAGE: DEEP AND STRIP

In every respect, strip mining is clearly more devastating to the environment than underground mining. Given the vast areas of land affected and the long term of the effects, this is the most significant comparison.

Strip mining characteristically involves the near-total destruction of the land surface throughout the area mined, and the spread of destruction through siltation, pollution, flooding, and so forth, far beyond the mined area. Underground since it characteristically removes coal from multiple underground seams in the same location rather than a single surface seam over a broader area. And in fact 95 percent of the surface undermined is not materially affected at all. The two principal exceptions are the undermining of towns which may lead to dangerous subsidence and the deposition of mine refuse on the surface. Undermining of towns can and should be prohibited to prevent future damage in this manner. Under better economic conditions and a stronger regulator framework, mine refuse could be reintroduced into the mine void or handled on the surface in a manner analogous to sanitary landfills to eliminate 75 percent of the potential surface disturbance.

WATER POLLUTION

The principal environmental characteristic which underground and strip mining clearly have in common is the production of acid and toxic water through the exposure of acid and mineral bearing shales to a combination of air and water. The strata of shale which are characteristically directly above and beneath the seam of coal are generally heavy producers of sulfuric acid when exposed to a combination of air and water.

In underground mines, water seeping through the roof and flowing out cracks and mine openings carries poisonous waters into streams—a major source of water pollution throughout the Appalachian region. This condition can be corrected in part by purposely caving in the mine roof following extraction of coal, by flooding the mine to the roof—which prevents access of air necessary for acid formation—by sealing all mine outlets, or by "back-filling" the mine with spoil material. All of these measures can reduce the problem, although frequently they do not cure it altogether.

In strip mines, the shale directly above the seam of coal is pulverized by the process of removal and cast on the spoil pile where it is exposed to air and rain water. Characteristically, since this strata is the last to be removed before the coal is reached, it reposes on top of the spoil pile. The strata of shale below the seam of coal is also exposed to air and water until it is recovered in the reclamation process.

The strip mine spoil banks have several characteristics which make them far more potent generators of acid than underground mines. First, the spoils are more directly exposed to air and water, both of which percolate to depths of 10 feet or more in the loose spoil material to generate acid water, which then runs out into surface watercourses or down into underground watercourses. Second, acid production is directly proportional to the surface area of the shales exposed to air and water; the pulverized shales in the spoil pile expose many more surfaces than do the solid shales underground. Third, acid production is also proportional to temperature, doubling for every 10° C rise in temperature. In

summer months, shale exposed to air and water on spoil piles at 90° F will produce four times as much acid as shale underground at a constant 50° F.

Finally, acid production by strip mines is a greater problem because the acid water flows in all natural directions down off and down through the entire strip mine spoils, rather than through a few discrete openings as in underground mining.

Even though strip mining can be expected to produce more acid water than underground mining, this is not the major water pollution problem associated with strip mining. The major problem, particularly in mountainous areas, is sedimentation. Strip mined areas continuously erode, filling streams and rivers with sediment which impedes the flow of water, fills the stream channels and promotes flooding, coats stream bottoms and prevents the growth of aquatic plant and animal life, fills reservoirs and impoundments, clogs public water systems, and transmits pathogenic viruses. Erosion and sedimentation rates 500 times that of neighboring unstripped land are common, documented by the U.S. Geological Survey and many other studies.

Sedimentation problems are not significantly associated with underground mining.

Erosion from strip mined land also loads water with toxic quantities of other minerals such as manganese, aluminum, ammonium, magnesium, calcium, potassium, sodium. Not only does the erosion of these minerals from stripped spoils prevent revegetation in the soil of these spoils, but the toxic concentrations of these minerals in the runoff water inhibit life in the areas to which these waters flow.

The heavy blasting characteristically associated with strip mining also has adverse effects on underground watercourses in many areas—diverting underground water, opening fissures to pollute underground water with acid and toxic surface waters, et cetera.

Therefore, although the water pollution consequences of underground mining have been and continue to be serious, the water pollution consequences of strip mining are far more serious relative to acid production, sedimentation, toxicity, and destruction of underground watercourses.

AIR POLLUTION

Air pollution is occasionally a problem with either mining method, though it is not of the magnitude of the other problems. "Noxious gases," testifies Hollis M. Dole, "are emitted from the 292 burning coal refuse banks and the 289 known coal outcrop and mine fires," resulting from underground mining. These are extremely difficult to control once underway, but adequate environmental regulation can largely prevent this problem with future underground mining. "Backfilling" of mine spoils into the mine or depositing them between layers of earth as in sanitary landfills can prevent future gob pile fires. Coal outcrop fires can also be prevented by back filling spoils against coal seams left exposed.

Strip mining, like other earth moving processes, can produce some air pollution problems through creation of dust during the mining process. This can be controlled in part by watering and is rarely serious unless the strip mine is very close to inhabited areas. More serious is the wind erosion of strip mine spoils in arid regions. This is already contributing to duststorms in the Black Mesa and Four Corners areas of Arizona and New Mexico.

THE MOMENT OF DECISION

I would hope that one lesson would be learned as a result of the current energy shortage. We must plan for the future in our handling of energy; we can no longer muddle through or leave the crucial energy decisions to the big oil conglomerates who are motivated by profits, not by any concern for what is best for the people. We have come up short in this crisis, and if we deal with this crisis by stepping up strip mining we will come up short again in the 1980's when all our eastern strippable reserves will be exhausted.

At that point, industry will finally turn to deep mining, but it is likely that the deep mining industry will be virtually extinct and the economic dislocations will be catastrophic. Furthermore, vast acreages of land will be devastated and precious water polluted beyond reclamation.

I can see only one positive result of our present energy problem. It has focused attention on coal and forced a decision on the abolition of strip mining. Many people have asked me: "How can you favor phasing out strip mining now?" The answer is simple: This is the last chance to make that decision. If Congress allows the administration and the energy conglomerates to increase strip mining as the answer to the energy crisis, we will have committed the Nation to a catastrophic and virtually irrevocable course. I discussed earlier several approaches to making the shift to deep mining, utilizing unused deep mine capacity, reopening closed deep mines, halting coal exports, expanding longwall mining. These can and must be implemented immediately. In addition, efforts are being made to line up long-term contracts for coal and to pump major amounts of investment into the coal industry. The prerequisites for a massive commitment to deep mining are in place. All that is needed is the commitment by Congress to phase out all strip mining of coal.

Congressional indecision on this question will be fatal.

We must save the land and the people by stopping the destruction caused by strip mining.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent Mr. HECHLER of West Virginia was allowed to proceed for an additional 2 minutes.)

Mr. BROWN of California. Mr. Chairman, will the gentleman yield?

Mr. HECHLER of West Virginia. I yield to the gentleman from California.

Mr. BROWN of California. I want to commend the gentleman from West Virginia for his substitute. I think it provides a reasonable solution, both to our conservation needs and to our energy needs.

I think if we do not adopt the program represented by this kind of opportunity, our problems will increase rather than decrease. I want to commend the gentleman from West Virginia for his amendment. I intend to support his substitute amendment.

Mr. HECHLER of West Virginia. Mr. Chairman, I thank the gentleman for his remarks.

Reclamation has been a failure in West Virginia, and many other States. As I pointed out, 60 percent of the land which has been certified as reclaimed has, as of today, lost its vegetative cover according to the Stanford Research Institute, in a study made for the West Virginia State Legislature.

Mr. MOAKLEY. Mr. Chairman, will the gentleman yield?

Mr. HECHLER of West Virginia. I yield to the gentleman from Massachusetts.

Mr. MOAKLEY. Mr. Chairman, I rise in strong support of the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. HECHLER).

In the past few weeks, we in Congress have been inundated with information about the various proposals to regulate strip mining in the United States. Much of the information has centered around the need to coordinate the demands of the country for energy with the environmental problem. One would think that a choice has to be made, between energy and the ecosystem. I don't believe that such a choice is necessary.

By adopting the Hechler bill, H.R. 15000, as a substitute to the committee bill, H.R. 11500, we will be insuring real protection of our natural environment. But, most importantly, we will not be sacrificing any of the energy needs of the Nation.

According to the report of the Committee on Interior and Insular Affairs, only 3 to 18 percent of the Nation's coal is recoverable by strip mining techniques. It is the consensus of the committee, and of the coal industry, that the future of coal mining in the United States lies in deep mine operations.

Deep mining of coal will allow us to extract just as much coal per year as we currently extract by strip mining and deep mining combined. And, in this process we will eliminate the rape of the land which has taken place in the Appalachian Mountains, and could well take place out West.

So, if it is true that the future of coal in the United States will be in deep mining, isn't it obvious that we should encourage such operations immediately?

I think it is. And, the only way I can see to achieve such an incentive to deep mine coal is to phase out and ultimately eliminate all strip mining. And that is

just what the Hechler substitute would do.

Many economic reasons exist which point out the need for abolition of all strip mining.

Should strip mining be merely regulated, rather than phased out, production would most likely be shifted from East to West. This is because of the easily recoverable coal out West; recoverable that is by strip mining.

But, should this shift occur, electric utilities in the East would be forced to pay higher transportation costs, passing them along to the already beleaguered consumers. Further, western coal that is recoverable by strip mining is very low grade. It is high in sulfur, and very low in Btu content. Eastern coal has two to three times the heat content, and thus the generating capacity of western coal. Thus, eastern consumers would not only have to pay for transportation costs, but would have to pay for two to three times as much coal.

It is ludicrous to think that such a situation would help anyone but the coal companies.

Yet, westerners need not fear that a phaseout of strip mining and the resultant shift to deep mine production would cause economic disaster for them either. Seams of high quality, low sulfur, high Btu coal are available, through deep mine operations in Colorado and Utah. Thus the West is guaranteed equal benefits from a phaseout of strip mining.

Finally, we must consider the human side of strip mining.

Hundred of families in West Virginia, Pennsylvania, and other coal States have been uprooted from strip mining. Families have been placed in danger as highwalls, and spoils slide down steep slopes. These people's lives and homes have become a national sacrifice to the profit hungry coal companies and strip mine operators.

The Hechler bill is the only measure which will adequately insure relief to these poor people. With its phaseout program, it stipulates tough standards on mountain slope mining. It disallows mining that would damage water supplies and water tables with drainage and acidity. It provides the human concern that seems to be lacking in any of the other proposals.

So, if we really want to protect the land and the people, while at the same time meeting the energy needs of the Nation, the Hechler substitute to the committee bill is the only sensible course of action.

In this country we have a total of 401 billion tons of recoverable coal. And, only 45 billion tons of that is strippable. That presents a ratio of 8 to 1 in favor of deep mining, all easily and economically recoverable with existing technology. To meet the Nation's energy needs, and to avoid the further rape of our lands, we must encourage deep mining by phasing out stripping, or all the strippable coal will be exhausted at the rate at which we are rushing to gouge it out.

Mr. CORMAN. Mr. Chairman, will the gentleman yield?

Mr. HECHLER of West Virginia. I yield to the gentleman from California.

Mr. CORMAN. Mr. Chairman, I thank the gentleman for yielding to me.

I too appreciate the advice and knowledge in this field of the gentleman from West Virginia. He is doing an excellent job, and I join him and support his substitute amendment.

Mr. Chairman, I appreciate this time to speak on behalf of H.R. 15000, a bill to provide an orderly phase-out of strip mining in the United States. This bill is especially important to those of us in the West because it will protect our environment and keep our water supply clean.

There is no question that at the present consumption level the United States has enough coal to meet its energy needs for scores of years to come. Coal currently provides 18 percent of our energy supply. What is at issue is how we extract our coal and how we will develop a long range national coal policy. Certainly in the short run we can strip mine our mountains and hills to meet our exigent energy demands. But is this the wisest policy? Strip mining despoils our environment, poisons our water supply, and can endanger whole communities by creating conditions ripe for landslides and floods. The January 1974, disaster in Slate Creek, where a coal waste avalanche caused families to evacuate their homes—some of which were destroyed—attests to this latter point.

By conservative estimates there is more than 8 times as much deep-minable coal as there is strippable coal. The public interest demands that we not merely skim that which is the most easily accessible, but that we create a long range policy that will enable us to develop the bulk of our coal reserves. H.R. 15000 does just this. It provides for an orderly phase-out of all strip mining operations in the United States over a 4½-year period. According to the United Mine Workers, this is a sufficient leadtime to convert to total deep-mining production.

I understand that some of my Western colleagues fear this bill does not represent the best interests of the Western States. This is not true for three reasons.

First, the measure will save tens of thousands of acres of untouched lands from eventual degradation at the hands of strip miners. In addition to the spoilation that results from strip mining, the fragile soil coupled with low rainfall make these plains particularly susceptible to destruction by erosion. Even if the land were subsequently reclaimed, it could take generations before it is ripe for vegetation. We must save our land now rather than attempt to salvage it later.

Second, the strip mining ban will insure that our precious western waters stay free of sodic solutions and other toxic substances associated with strip mining. We cannot allow our drinking water and irrigation supply to go the way of West Virginia's many contaminated lakes and rivers.

Third, the measure will protect the great breadbasket of the Nation from the disruptive forces of strip mining. We must insure that aquifers remain unpolluted and adequate water supplies be maintained for crops and livestock. For these reasons, Mr. Chairman, I strongly urge my colleagues to vote with me in support of Mr. HECHLER's bill.

Mr. LAGOMARSINO. Mr. Chairman, will the gentleman yield?

Mr. HECHLER of West Virginia. I yield to the gentleman from California.

Mr. LAGOMARSINO. Mr. Chairman, is there anything in the gentleman's bill which relates to minerals other than coal?

Mr. HECHLER of West Virginia. No; there is not.

Mr. LAGOMARSINO. I thank the gentleman.

Mr. HECHLER of West Virginia. Mr. Chairman, I would like to quote from an article appearing in the Charleston, W. Va., Gazette yesterday:

> Strip mining destroys more jobs than it creates, and it definitely poses a threat to the growing, lucrative tourist industry in West Virginia, according to a study just completed at West Virginia University.

Further, strip mining can bring us temporary profits, like taking six or eight strong drinks in a row, but when the morning after comes, the coal is gone, the land is gone, and the people are impoverished, then we have a hangover with a mouthful of ashes. That is why I say we must shift to deep mining.

The hills of Appalachia are bleeding. Strip mining for coal has gouged deep and gaping gashes. The guts of our once-proud mountains have been ripped out and dumped into the gullies. When you fly over the Appalachian area, you see entire mountain-tops which have been scalped off. Others have been ringed around the top like peeling off an apple or, as John Quarles said a few days ago, "ugly scars which encircle the mountains like the coils of an angry snake" and "gutted hillsides raked by the claws of rushing water."

The Damoclean sword of strip mining is poised above the vast domain of our public lands and Indian lands where strip coal prospecting permits and leases have already been granted. What belongs to all the people must be preserved for the people, and not for Burlington Northern, Consolidation Coal, Amax, and the scores of other less-well-known land company fronts which masquerade under bucolic names like "Meadowlark Farms."

A cancer of the Earth is spreading across our Nation. This cancer has already attacked the mighty mountains of Appalachia, and brought leukemia to the pulsating rivers and creeks. Already nearly 3,000 square miles of our land have succumbed to this cancer, and 1,000 acres a week are being systematically stripped and devastated. Unless this cancer is checked, a total of 71,000 square miles of our land may be laid waste—the equivalent of a strip of dead tissue, 25 miles wide, stretching from coast to coast.

The cancer of strip mining is a menacing disease. Our lust for energy at the cheapest monetary cost today totally ignores the social costs passed on tomorrow and to future generations who will be paying the bill in polluted water, destroyed topsoil, landslides, floods, sedimentation, and barren moonscapes.

The agents which transmit this cancer are the giant earthmoving machines developed by an onrushing technology—machines that can gouge out 200 to 300 tons of earth and rock at a single bite, swing 3 Greyhound buses the length of several city blocks, tower 20 stories in the air, and use up enough electricity to power a medium-sized city in a day's work. These awesome giants pulverize and destroy layers of earth and rock which were fashioned in geologic eras longer than human history but are now being uprooted in a few minutes. Water tables are destroyed, depriving the Earth of its channels of nourishment. Deep strata of rock and shale are pulverized and exposed to the elements, where they will leech acids and toxic materials into the surrounding streams for generations.

Boulders are loosened by blasting and crash down the mountainsides. Nobody bothers to cry: "Look out below."

Mr. Chairman, Shakespeare had a few things to say about strip mining, even before he knew what a spoil bank or a drag line looked like.

In Julius Caesar, Marc Antony speaks these poignant words:

O, pardon me, thou bleeding piece of earth
That I am meek and gentle with these butchers

The Earth is bleeding in Appalachia. The hills are bleeding too.

I recall an observer who came down to visit my congressional district at the time of one of our greatest disasters, on February 27, 1972, when 125 men, women, and little children were swept to their deaths as a result of the irresponsibility and criminal negligence of the Pittston Coal Co., at Buffalo Creek. A coal slag heap, which we call a gob pile, which the coal company used as to impound water to wash their coal, burst at 8 o'clock in the morning on that fateful day. Like a giant, greasy fist, the 30-foot wall of coal sludge and water crashed down on my poor people that dark Saturday morning, sweeping homes, churches, and a twisted jumble of telegraph poles, railroad ties and people down the 17-mile Buffalo Creek valley.

An observer came down to view the incredible human carnage took a trip around to other hollows where other coal slag dams were hanging like swords of Damocles over the people. And he made this observation: "The hills throughout this whole area are leaking."

"No," I answered. "They're not leaking; they're bleeding."

The substitute bill which I am offering, H.R. 15000 has won widespread public support in every State in the Union. There are 41 cosponsors from 17 States. Many others of my colleagues have expressed support for a well-planned and orderly phasing out of the curse of strip mining, which has ripped, raped, gashed, gouged, gored and gutted the land and the people.

And the people who have suffered the most from strip mining are the people of the mountains.

I say to you with all the emphasis at my command: the people of the mountains are not going to stand still and let themselves become a national sacrifice area for the power-hungry strippers. You cannot count on the people of the mountains to sit back and remain docile, fatalistic and long-suffering in the face of the new demands being made by insensitive and arrogant strip miners.

What does the committee bill do about gob piles and impoundments?

I am glad that my friend from Ohio, Mr. REGULA, brought up the point about the damages done by deep mining, because my bill H.R. 1500 in Section 106 does contain protection against deep mining environmental damages—pages 33 and 35. The committee bill contains no like provisions.

Acid drainage control involves either prevention or treatment.

Bulkhead seals, constricted with concrete, limestone, or other material are used to block mine entrances or inner tunnels of abandoned mines. These seals are designed to prevent oxygen from entering the mine and to retain drainage behind the seal—

According to GAO report:

An EPA official stated that these seals had been the most successful underground acid drainage prevention technique developed and that under certain conditions a mine can be effectively sealed by this technique. Some types of bulkhead seals are being used commercially and are considered by EPA officials to be 75% to 99% effective in reducing acid pollution. The cost of these seals range from $1,000 to $20,000 per seal.

My bill also requires back-stowing of all mine wastes into the deep mines, which is an important preventive of the air-polluting gob piles. It is ironic that when you go back to look at the big gob pile at Buffalo Creek, as I do frequently and most recently on the Fourth of July, you climb up onto that heap of garbage and right on top is a neatly-lettered sign: "No Dumping."

In the area around these smoking gob-piles, the people see this acrid smoke pouring into the air, and they also live in fear whenever it rains that another disaster may occur. Yet these same people will be fined $25 for burning trash in their own back yards.

Mr. Chairman, in contrasting H.R. 15000 with H.R. 11500, I want to point out that the committee bill, which Mr. HOSMER aptly calls the "hell and high water" bill, really does keep the people of the mountains in hell and high water for several years. One major weakness of H.R.11500 is that for the first 3½ years of the bill—that is until 1978, you have ridiculously weak "interim standards." During this period until 1978, you have a virtual license for the strippers to proceed. The strippers can scalp off the tops of mountains—a favorite form of Appalachian devastation. No standards are included in the interim period to require the prevention of erosion and prevention of acid drainage, or the handling of toxic materials and auger holes.

If the operator can show he has difficulty in getting the equipment he can even be exempt from reclamation.

After 1978, the restrictions are supposed to get tougher in H.R. 11500, but the strippers will have a field day streaking through the loopholes.

The emphasis is on the States. I heard a lot of wonderful talk about the States and how well they have done in reclamation, but sadly the facts do not support these contentions of wonderful reclamation. So much of this is great P.R. work by the power and coal companies.

In those States where the mining industry controls the politics, you can not get good enforcement.

In Gilbert Creek, Mingo County, W. Va., we had a flood in 1972, and as I went to visit the people in that hollow, I could see with my own eyes the rocks, trash and spoil which had slid down the hill from the strip mine above. A schoolteacher showed me some of the effects of strip mining on the people of the area. I told him I wanted to bring some more people down the next day to take a more detailed look. He promised to take me around.

But when I came back the next day he was nowhere to be found. When I finally tracked him down, he was a different person. I was later told that he had gotten several calls from the school board, threatening him that he would be transferred so far away that they would put in a school where it would take a mule to get back and forth every day unless he shut up and stopped talking with me about strip mining.

The unbelievable pattern of fear and intimidation which the coal companies have spread throughout West Virginia and the Appalachian area is not only undermining our land, it is undermining the freedom which the people of this land are supposed to have under the constitution which governs us.

Let us move boldly and with foresight to save the land and the people by abolishing strip mining in an orderly way.

Ms. ABZUG. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in support of the Hechler substitute amendment. I think that those of us in the east who have been studying this problem, have come to understand that there are some very serious human problems involved here which all of us have the responsibility to deal with.

Mr. Chairman, I commend the gentleman for his excellent efforts in this connection.

Mr. Chairman, our Nation is rushing down the strip mining road, rapidly devouring our tiny reserves of surface coal while abandoning those huge deep coal fields which are our greatest energy resource. When the strippable coal is depleted, in the not-so-far future, the country will be faced with economic chaos. Until then, surface mining operations will continue to leave an appalling path of environmental destruction. The scarred mountains, landslides, and polluted streams are reason enough to abolish strip mining this very day. But its horrors extend far beyond these consequences. In its wake, strip mining leaves the shattered dreams and broken spirits of human beings. To protect the lives of thousands of individuals and to prevent

the crude exploitation of entire regions, strip mining must be stopped.

The people of Appalachia have carried the burden of surface mining for years now. They have seen their homes and farms ploughed under by the bulldozer, the products of a lifetime wiped out in a single day. They have watched as the coal companies extracted the wealth of their countryside, leaving a land and a population impoverished. And they know this "temporary" land use will poison their communities for generations to come.

Now the Great Plains are being promised this same devastation. The people of the West will be asked to stand by while their towns mushroom in size, their lifestyles are trampled by uncontrolled growth and the demand for public services swells to the breaking point. The Council on Environmental Quality notes that—

> There are few, if any, cities and villages in the region that could absorb these new employees and their families without extensive changes in their public and private capital facilities and, in many cases, their way of life.

When the strippable coal runs out, in 30 years or less, they will be left with ghost towns, huge public bills, and a land incapable of providing its former benefits.

To those who are not convinced of the dangers, we can only point to the experience of individuals in the East. To people like Alice Fugate who was killed by a boulder that crashed through her house. The rock came from a nearby strip mine which was using explosives to extract coal. At the time of Mrs. Fugate's death, her husband was pleading with the mine operators to be more careful with their blasting. Two months earlier, in the same county, families were evacuated as mudslides carried away a home and destroyed precious possessions. One can only point to those in Kentucky who have seen their family graveyards violated, to the thousands who have watched their water supplies filled with acid and silt, or to the town of Gilbert, W. Va., which was hit by flash floods caused by strip mining, floods that resulted in $7 million in direct damage. For most, the violence of strip mining is more subtle, but still just as devastating. Thousands of acres are now inhospitable, land which once helped people lead productive lives.

No regulatory bill will stop these tragedies. As can be seen by the incredible length of H.R. 11500, regulation is such a complex issue as to practically insure a myriad of loopholes and ambiguities. Past efforts have met with little success. West Virginia has had a supposedly model law on its books for decades, but the terrible destruction in that State continues. Supporters of H.R. 11500 have stated that Federal enforcement procedures will insure a better enforcement of strip mining regulations. Yet they are entrusting this vital task to a Department which has mismanaged such regulatory programs in the past and which opposes some of the most important provisions of H.R. 11500. In any case, how can regulation, no matter how strong, halt the dislocation of hundreds of families? How can it prevent the boom and bust economies? And how will it bring rain to the West, so necessary for proper revegetation?

It is easy for those of us in Washington or those who live far from the coal producing areas to dismiss the cries for help as insignificant in the face of our tremendous energy needs. But they are not. For thousands, we are their last hope. What is so incredible about this whole debate is that the answer is so obvious. Ninety-five percent of our coal can be obtained only by deep mining. New longwall technology makes more of it recoverable than ever before. This method is safe, too, for the machinery protects the miner from roof collapse. Recently enacted Federal legislation requiring adequate ventilation and coal dust prevention will virtually eliminate black lung problems, if we can rely on the experience of other countries. If the headlong rush to the West continues, the cost advantages of strip mining will be eliminated also. Transportation costs back to the eastern factories are staggering, often greater than the cost of the coal itself. With a minimum of hardship, we can convert back to deep mining in a short time. If this country must use coal, let us do so in a way that causes the least economic dislocation, the least environmental damage, and the least human suffering.

Meanwhile, while the Congress fails to act, strip mining chews up 1,200 acres per week. How many lives are shattered with it?

I urge your support for H.R. 15000. Abolition is the only answer.

Mr. MITCHELL of Maryland. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, as many of the Members of this House know, I have a particular interest in the area of business, minority enterprises and economic development, and it is not often that I speak on a bill which is not related to my particular committee assignment or subcommittee assignment.

We do not have the problem of strip mining to an extensive degree in the State of Maryland. However, more and more, as I travel around the country, I am aware of the fact that unless we take some positive, sensible measures to protect our environment, to strengthen our whole conservation program, we are going to find ourselves in 10, 15, or 50 years from now living in a country half ugly physically and half beautiful physically. When we consider the vastness of America, it is so very easy to think that a country this large could never become an ugly place in which to live, but indeed it can. We have seen this happen in our cities. They have become ugly, and, as I travel, I see this happening to our countryside simply because some vested interests are more concerned with a profit; more motivated by a ledger-profit psychosis than motivated in terms of a good environment for the country.

Mr. Chairman, I am grateful for this opportunity to speak in support of the substitute amendment offered by the gentleman from West Virginia. It makes sense. It is not a radical kind of approach that says, "Stop now and let the chips fall where they may." We have here, in the Heckler proposition, an orderly phased-out process.

The Hechler proposition makes sense in that it does not at all threaten our energy resources. His approach, indeed, would strengthen our energy resources if we pursue the option of extracting deep mine coal which exists in rather abundant supplies.

It seems to me that while we debate this measure, we should be considering what kind of natural legacy we are going to leave to future generations of Americans. I would respectfully suggest to my colleagues that if they vote for H.R. 15000 that will be the first positive step that this House has taken to insure that we are going to leave a legacy of a decent environment, a decent country, a beautiful country, and a country with sufficient energy reserves so that we will not be plagued by some of the energy problems that we went through last winter.

One would think that by now we, as a country, and specifically we, as Members of Congress, would have given up the notion that we can solve long-term problems with short-term, shortsighted solutions. It would appear, however, that we have not.

Today we address ourselves to the question of strip mining, but in a larger sense we are speaking to the issue of coal production, and in an even greater sense, to the energy crisis itself. In this respect, strip mining epitomizes the use of the short-term solution with a totally blind eye to the long-range costs, both financial and environmental.

The Interior Committee has agreed that strip mining is an evil, but faced with intense pressure from the coal industry, has produced a critically weak bill. I am sensitive to the industry pressure against enactment of a proenvironment bill. I am sensitive to the pressures every industry exerts against a proenvironment bill in their field. When, however, are we going to stop and say "enough." "Our environment is not an expendable commodity which we can sell to you even if we wanted to."

The bill drawn up by my colleague, Mr. HECHLER, is realistic in its expectations and in its implementation. It represents the long-term approach which we need to begin to adopt.

I urge support for the Hechler substitute.

Mr. FRASER. Mr. Chairman, we are being asked today to decide on the course our future coal production will take. Coal currently supplies only one-fifth of our energy needs. We rely on oil and gas far three-fourths of the energy we use. But domestic oil and gas supplies have peaked. For the immediate future this country must turn to coal.

All the evidence points to the fact that we will have to use our deep coal resources. The United States is now producing about 600 million tons of coal a year. We have 3 trillion tons of coal reserves, of which anywhere from 14 to 50 percent are considered recoverable under current economic conditions and existing technology. Using the most conservative of these estimates, there are 400 billion tons of coal reserve available to us today, enough for several hundreds

of years. And 90 percent of these 400 billion tons of coal can be extracted only by deep mining.

Only one-tenth, then, of our national coal reserves are strippable. Moreover, in many instances, strippable reserves can be deep-mined. Of the estimated 45 billion tons of strippable reserves—located mostly in the western and central coal fields—11.5 billion tons can be recovered by deep mining.

The sooner that deep mining becomes economically attractive, the sooner we will be headed toward a long-term solution of our energy problems. EPA Administrator Russell Train has been outspoken in support of this alternative. He has said that with only a small percentage of our total coal supply strippable, our—

Underground reserves are by all odds the predominant source that we have. We're going to have to get at this in any event.

Deep mining has been on the wane. More than 1,500 deep mines have been abandoned since 1970. The 1969 Coal Mining Health and Safety Act, from a short-term point of view, has made deep mining more costly than ripping up the earth and stripping off the surface coal. The result has been that half of U.S. production now comes from surface mines.

Strip mining is a recent phenomenon. It did not become technologically feasible to mine coal in this way, on a large scale, until the early 1960's. Strip mining involves less leadtime, lower capital investment, lower operating costs, and less skilled labor than deep mining. It is economically attractive, but only because the total costs have not been calculated—the costs of surface waters poisoned, land denuded, soil eroded, wildlife habitats destroyed and agricultural productivity lost.

Thus far, surface mining has gone on largely unregulated. State laws, for the most part, have not been enforced or have been unenforceable.

The Department of the Interior has estimated that two-thirds of the land stripped for coal has never been reclaimed—over 2.5 million acres, an area larger than the State of Delaware.

Mr. Quarles, EPA Deputy Administrator, spoke at a town meeting last week in a Pennsylvania region hard hit by poor strip mining practices. He referred to the lack of firsthand knowledge of most Members of Congress of the destructiveness of strip mining. Members debating strip mining regulatory legislation "will not have seen," he said, "the miles of ugly scars which encircle the mountains like the coils of an angry snake."

They will not have seen the gutted hillsides raked by the claws of rushing water. They will not have seen the streams choked with sediment. Most of them will never know the acrid stench of a pond or marsh fouled by acid runoff. Few of them will ever hear the roar of a power shovel as it chews into a hillside.

Whether we have seen these things firsthand or not, we all recognize the need for legislation to prevent the senseless destruction that has accompanied strip mining in the past.

In two recent legislative milestones, the Clean Air Act of 1970 and the Water Pollution Control Act of 1972, Congress has clearly established that the air and water of this country are not to be used as a vast waste bin by industry or by individuals. Our air and water belong to all of us. They are part of the public trust, and on their wise use depends the public health and the well-being of posterity.

In the same way, we cannot allow our land resources to be exploited for quick gain, to the detriment of the long term public interest.

Certainly we need the coal, but we need the land and water, vegetation and wildlife, as well. And we can get the coal. We can get it by strictly controlling surface mining so that environmental damage is kept to a minimum and by devoting our major efforts to tapping our deep coal reserves.

Under H.R. 15000, the substitute bill offered by my colleague from West Virginia (Mr. HECHLER), surface mining of coal would be phased out over a 4½-year period, during which the large western and central strip mines could continue to operate until sufficient deep mining capacity could be developed to take care of our needs.

Needed coal production could be made up by shifting to deep mine technology. The 4½-year phase-out period would allow the leadtime needed to open new deep mines. Some lost strip production could be supplemented at once by existing deep mining capacity. A recent study done for the Senate's National Fuels and Energy Policy Study states:

Although it may take two years or more to open new deep mines, some lost strip output could be made up almost immediately by existing and excess deep mining capacity. For example, there is at present excess capacity in some deep mines of Appalachia. Some mines are working less than full three shifts daily, or are mining fewer sections than they were three and four years ago; production could be expanded considerably in such mines.

If we strip all the coal there is to strip, estimates are that we would run out before the turn of the century and would have to turn to our deep reserves in any case. Far better that we do so now, before we turn vast areas of our West into another Appalachia.

But let me stress, this is not a regional issue—West versus East. It is not a special interest issue—coal industry versus environmentalists. It is a national issue of immediate and urgent concern to all of us. How we extract our coal resources—how wisely we do so, and how economically, in the full sense of the word—will affect the lives of all of us.

I hope that the Congress will phase out strip mining and make deep mining a more attractive economic alternative. The substitute bill offered by my colleague from West Virginia (Mr. HECHLER) would do this.

But if the House does not accept this proposal, I urge that at the least, it approve effective controls on strip mining which would permit full utilization of our domestic coal reserves without destroying the land.

Mr. BADILLO. Mr. Chairman, I rise in support of H.R. 15000, a bill to impose strict environmental and safety controls on the coal mining industry and to phase out strip mining over the next 2½ years. I believe that the Hechler bill is the one we should approve today because it is the only one which incorporates proper concern for the long-range use of the land with incentives for accelerated production of coal.

The heavy lobbying campaign of the coal industry against this legislation boils down to a representation that the energy shortage is so drastic that we should allow uncontrolled extraction of all strippable coal in America as rapidly as possible. This argument is undercut by the recent U.S. Government report that worldwide production of oil now exceeds demand by approximately 1.5 million barrels a day and that the surplus will be even greater in 1975. Petroleum Intelligence Weekly, an industry organ, agrees with this assessment and recently announced that crude oil is going begging in the marketplace. It is true that most of this excess is high-priced crude oil from Arab countries, but it cannot help coming down in price as the glut on the market continues.

The second significant aspect of our long-range desire to become self-sufficient in energy is that there is at least eight times as much deep minable coal as surface minable reserves at the most conservative estimate, indicating where our planning for the future should concentrate. Cries of scarcity are belied also by the fact that one-tenth of all coal being mined in the United States today is exported to other countries.

What we are being asked to do is to yield to the desire of coal producers to extract their product with the lowest possible cost, an acceptable goal on the face of it if it were not for the fact that the end result will be a ravaging of the land and permanent removal of vast tracts from any future productive use.

Anyone who has seen the devastation left behind by profit-hungry strip miners in Appalachia will realize that strict controls must be placed on those operators who have shown not an iota of responsibility for restoring the land once they have uprooted it, denuded it, and abandoned it after extricating what they are after. Among the consequences have been the dumping of large quantities of acid into mountain streams and rivers once used for drinking supplies and recreation, the permanent destruction of land once used for crop production, uncontrollable erosion from scarred and ravaged slopes, and destruction of homesteads and injury to people from man-made slides and floods.

It would be foolhardly to allow ourselves to be stampeded into thoughtless acquiescence with the aims of an industry which has proved its disregard for the future of the land in so many ways

and places already. Now that most of the surface coal has been torn from the slopes of Appalachia, the industry is asking to be allowed to continue to pursue the same methods in the exploitation of surface coal deposits in the West.

Two facts are important. The first is that coal mined in the West will double or triple in price when shipped to east coast markets, making it more expensive than deep-mined coal from the Appalachian fields and thereby obviating the rationale of cheap production costs.

More importantly, there is virtually no scientific knowledge as to whether the arid western plains are reclaimable after the strip miners have moved through with their earth-gouging machines. More than 1,000 acres a day are being dug up in the West, and though the industry has given lipservice to reclamation, a Montana rancher was recently quoted in the New York Times as saying:

> We're not comforted by assurances of reclamation when, in fact, there is not one acre of reclaimed land in the Northern Great Plains which has been returned to agricultural production, much less grazing.

Coal is now being stripped from lands which get less than 20 inches of rain a year, and the National Academy of Sciences has estimated that it will take decades or even centuries for natural revegetation of such lands after they are stripped of their surface soil. What this means to the agricultural occupations or to the grazing and water rights of the people left in the wake of the coal strippers has not been addressed by the industry in any meaningful way to this day.

The gentleman from West Virginia deserves our thanks for his dedicated efforts to win passage of legislation to insure that the rights of all the people are protected. He has made the point that there is virtually no regulation of strip mining by the States today, and that in the one State with stringent controls, Pennsylvania, requirements for reclamation of stripped land have not cut coal production back, but have actually allowed it to increase.

The gentleman also makes the excellent point that we can begin now to open up our vast underground coal reserves with planning and foresight, while leaving the surface coal for future rapid extraction should we ever be faced with a genuine national crisis. The coal industry takes the opposite tack in its desire to deplete the Nation's strippable coal by intensive mining of it so that it will be nearly exhausted around the time we are talking about achieving energy self-sufficiency, in the mid-1980's.

Mr. Chairman, the committee bill, H.R. 11500, is not a bad piece of legislation. However it lacks some of the necessary environmental standards set by the Hechler measure. There is no reason, for example, to allow a grace period before protective regulations take effect. That would be tantamount to granting a license to wreak as much damage as fast as possible in the interim, 90 days or 6 months, until controls went into effect.

I believe that we have an opportunity in debating these different bills to establish a balance between the national need for energy and the danger of permanent depletion of limited natural resources. We recognize at last the finite nature of this planet's riches, and our concern for future generations requires that we take care not to permanently deplete lands that with proper care can be rehabilitated.

Proponents of the Hosmer substitute have failed to make the case for a crisis so imminent as to justify doing permanent damage to great tracts of land on a crash basis. We must recognize that there are more interests to be considered than those who produce energy for profit. Our coal reserves are too vast to convince me that we cannot adopt rational policies for systematic controlled extraction to meet our current needs while simultaneously planning in such a way that we will not blunder into an emergency as we did recently.

I urge the House to vote for responsible legislation that is in the long-term interest of the country, and not to allow overblown rhetoric to lead to lasting depletion of resources whose renewability is crucial to the future. We are not talking of nature simply as a scenic resource. We are talking about people's livelihoods, we are talking about land producing for the benefit of an entire region, we are talking about water for people, crops, and animals, and the quality of life for those inhabitants who remain behind after men and machines move on—all of these must enter into our deliberations. The Hechler bill meets the test. It deserves our approval.

Mr. VANIK. Mr. Chairman, I rise in support of the substitute offered by the gentleman from West Virginia.

Mr. Chairman, there are few Members in this chamber more qualified to address themselves to coal mining legislation than Congressman KEN HECHLER. He has been reelected seven times by a district that provides huge amounts of coal for American industry and utilities. His constituents know that he stands for safety and employment in the coal fields. He also, more than most Members of the House, knows firsthand of the devastation caused to the land and its people by strip mining.

Today he brings before us an amendment to H.R. 11500 in the form of a substitute bill. The substitute, basically, would reduce reliance on surface mining, in favor of a return to traditional, underground, deep mining.

Much controversy has arisen over the coal mining legislation that is before us today. Yet despite the avalanche of mail that each of our offices has received, it cannot be denied that our present overdependence on stripped coal will soon prove to be disastrous. Strippable coal reserves cannot last forever, so conversion to other mining methods must start as soon as possible to avoid a precipitous, forced change later. The sooner we change, the more of our Nation's lands will be saved from devastation.

This is what the Hechler substitute accomplishes. It provides a gradual decrease—up to 54 months in some areas—in strip mining in favor of underground mining. Some 97 percent of our Nation's mineable reserves are available only through underground mining.

The gentleman's proposal is not a radical measure as the mining industry would like us to believe, but a reasonable attempt to require the industry to think ahead responsibly.

I urge my colleagues to vote for the Hechler substitute.

The CHAIRMAN. The question is on the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. HECHLER) for the committee amendment in the nature of a substitute.

The question was taken; and the chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. HECHLER of West Virginia. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 69, noes 336, not voting 29, as follows:

[Roll No. 390]

AYES—69

Abzug	Fascell	Rodino
Addabbo	Ford	Roe
Anderson, Calif.	Fraser	Rosenthal
	Griffiths	Roush
Aspin	Gude	Roybal
Badillo	Harrington	Ryan
Bafalis	Hawkins	St Germain
Bennett	Hechler, W. Va.	Sarbanes
Bingham	Holtzman	Seiberling
Bolling	Howard	Stark
Brademas	Kastenmeier	Stokes
Brown, Calif.	Koch	Studds
Burke, Calif.	Lehman	Thompson, N.J.
Burton, John	Long, Md.	Tiernan
Burton, Phillip	Luken	Van Deerlin
Chisholm	Macdonald	Vander Veen
Collins, Ill.	Mitchell, Md.	Vanik
Corman	Moakley	Waldie
Dellums	Moss	Whalen
Diggs	Pike	Wolff
Dingell	Podell	Yates
Drinan	Rangel	Young, Ga.
Eckhardt	Reuss	
Edwards, Calif.	Riegle	

NOES—336

Abdnor	Burlison, Mo.	Dent
Adams	Butler	Derwinski
Alexander	Byron	Devine
Anderson, Ill.	Camp	Dickinson
Andrews, N.C.	Carney, Ohio	Donohue
Andrews, N. Dak.	Carter	Downing
	Casey, Tex.	Duncan
Annunzio	Cederberg	du Pont
Archer	Chamberlain	Edwards, Ala.
Arends	Chappell	Eilberg
Armstrong	Clancy	Erlenborn
Ashbrook	Clark	Esch
Ashley	Clausen, Don H.	Eshleman
Bauman		Evans, Colo.
Beard	Cleveland	Evins, Tenn.
Bell	Cochran	Findley
Bergland	Cohen	Fish
Bevill	Collier	Fisher
Biaggi	Collins, Tex.	Flood
Biester	Conable	Flowers
Blackburn	Conlan	Flynt
Blatnik	Conte	Foley
Boggs	Cotter	Forsythe
Boland	Coughlin	Fountain
Bowen	Crane	Frelinghuysen
Bray	Cronin	Frenzel
Breaux	Culver	Frey
Breckinridge	Daniel, Dan	Froehlich
Brinkley	Daniel, Robert W., Jr.	Fulton
Brooks		Fuqua
Brotzman	Daniels, Dominick V.	Gaydos
Brown, Mich.		Gettys
Brown, Ohio	Danielson	Giaimo
Broyhill, N.C.	Davis, S.C.	Gibbons
Broyhill, Va.	Davis, Wis.	Gilman
Buchanan	de la Garza	Ginn
Burgener	Delaney	Goldwater
Burke, Fla.	Dellenback	Gonzalez
Burke, Mass.	Denholm	Goodling
Burleson, Tex.	Dennis	Gray

Green, Oreg.	Matsunaga	Schroeder
Green, Pa.	Mayne	Sebelius
Gross	Mazzoli	Shipley
Grover	Meeds	Shoup
Gubser	Melcher	Shriver
Gunter	Mezvinsky	Shuster
Guyer	Michel	Sikes
Haley	Milford	Sisk
Hamilton	Miller	Skubitz
Hammer-schmidt	Mills	Slack
	Minish	Smith, Iowa
Hanley	Mink	Smith, N.Y.
Hanna	Minshall, Ohio	Snyder
Hanrahan	Mitchell, N.Y.	Spence
Hansen, Idaho	Mizell	Staggers
Harsha	Mollohan	Stanton,
Hastings	Montgomery	J. William
Hays	Moorhead,	Stanton,
Hébert	Calif.	James V.
Heckler, Mass.	Moorhead, Pa.	Steed
Heinz	Morgan	Steele
Henderson	Mosher	Steelman
Hicks	Murphy, Ill.	Steiger, Ariz.
Hillis	Murphy, N.Y.	Steiger, Wis.
Hinshaw	Murtha	Stephens
Hogan	Myers	Stratton
Holt	Natcher	Stubblefield
Horton	Nelsen	Stuckey
Hosmer	Nichols	Sullivan
Huber	Nix	Symms
Hudnut	Obey	Talcott
Hungate	O'Brien	Taylor, Mo.
Hunt	O'Hara	Taylor, N.C.
Hutchinson	O'Neill	Thomson, Wis.
Jarman	Owens	Thone
Johnson, Calif.	Parris	Thornton
Johnson, Colo.	Passman	Towell, Nev.
Johnson, Pa.	Patman	Traxler
Jones, Ala.	Patten	Treen
Jones, N.C.	Pepper	Udall
Jones, Okla.	Perkins	Ullman
Jordan	Pettis	Vander Jagt
Karth	Peyser	Veysey
Kazen	Pickle	Vigorito
Kemp	Poage	Waggonner
Ketchum	Powell, Ohio	Walsh
Kluczynski	Preyer	Wampler
Kuykendall	Price, Ill.	Ware
Lagomarsino	Price, Tex.	White
Landgrebe	Pritchard	Whitehurst
Landrum	Quie	Whitten
Leggett	Quillen	Widnall
Lent	Railsback	Wiggins
Litton	Randall	Williams
Long, La.	Rarick	Wilson, Bob
Lott	Rees	Wilson,
Lujan	Regula	Charles H.,
McClory	Rhodes	Calif.
McCloskey	Rinaldo	Wilson,
McCollister	Roberts	Charles, Tex.
McCormack	Robinson, Va.	Winn
McDade	Robison, N.Y.	Wright
McEwen	Rogers	Wyatt
McFall	Roncallo, N.Y.	Wydler
McKay	Rooney, Pa.	Wylie
McKinney	Rose	Wyman
McSpadden	Rostenkowski	Yatron
Madigan	Rousselot	Young, Alaska
Mahon	Roy	Young, Fla.
Mallary	Runnels	Young, Ill.
Mann	Ruppe	Young, S.C.
Maraziti	Ruth	Young, Tex.
Martin, Nebr.	Sarasin	Zablocki
Martin, N.C.	Satterfield	Zion
Mathias, Calif.	Scherle	Zwach
Mathis, Ga.	Schneebeli	

NOT VOTING—29

Baker	Dulski	Madden
Barrett	Grasso	Metcalfe
Brasco	Hansen, Wash.	Nedzi
Broomfield	Helstoski	Reid
Carey, N.Y.	Holifield	Roncallo, Wyo.
Clawson, Del	Ichord	Rooney, N.Y.
Clay	Jones, Tenn.	Sandman
Conyers	King	Symington
Davis, Ga.	Kyros	Teague
Dorn	Latta	

So the amendment in the nature of a substitute for the committee amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. Are there any further amendments to title I?

AMENDMENT OFFERED BY MR. HOSMER TO THE COMMITTEE IN THE NATURE OF A SUBSTITUTE

Mr. HOSMER. Mr. Chairman, I offer an amendment to the committee amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. HOSMER to the committee amendment in the nature of a substitute: Page 142, line 3. Strike out "SEC. 101." and insert a "SEC. 101." to read as follows:

SEC. 101. The Congress finds that—

(a) the extraction of coal by underground and surface mining from the earth is a significant and essential activity which contributes to the economic, social, and material well-being of the Nation;

(b) there are surface and underground coal mining operations on public and private lands in the Nation which adversely affect the environment by destroying or diminishing the availability of land for commercial, industrial, recreational, agricultural, historic, and forestry purposes, by causing erosion and landslides; by contributing to floods and the pollution of water, land, and air; by destroying public and private property; by creating hazards to life and property; and by precluding post-mining land uses common to the area of mining;

(c) surface and underground coal mining operations presently contribute significantly to the Nation's energy requirements, and substantial quantities of the Nation's coal reserves lie close to the surface, and can only be recovered by surface mining methods, and therefore, it is essential to the national interest to insure the existence of an expanding and economically healthy coal mining industry;

(d) surface and underground coal mining operations affect interstate commerce, contribute to the economic well-being, security, and general welfare of the Nation and should be conducted in an environmentally sound manner;

(e) the initial and principal continuing responsibility for developing and enforcing environmental regulations for surface and underground coal mining operations should rest with the States; and

(f) the cooperative effort established by this Act is necessary to prevent or mitigate adverse environmental effects of present and future surface coal mining operations.

Mrs. MINK. Mr. Chairman, will the gentleman yield?

Mr. HOSMER. I yield to the gentlewoman from Hawaii.

Mrs. MINK. Mr. Chairman, I would like to inform the gentleman that we have very carefully studied the amendment he has offered and see no objection to it and we would be pleased to accept it.

Mr. HOSMER. Mr. Chairman, I am very pleased that the gentlewoman has decided to accept this amendment. I do not think however we should proceed very far without having an understanding of what it contains and what its purpose is.

My chief complaint against the bill H.R. 11500 as it now stands is that it is highly overweighted toward the environmental values at the expense of economic and energy considerations. The accuracy of this complaint is evidenced in the section 101 in its unamended state, and the gentlewoman from Hawaii has kindly agreed to this amendment of mine which would now strike that overweighing out and replace it with a more reasonable and well-balanced statement of finding.

The present section 101 deals with the environmental abuses that have characterized surface mining at certain times while it makes a few passing references to the importance of mining coal. It minimizes the importance of surface mining of coal in meeting the short-term energy needs while it maximizes the needs of deep mining coal in meeting the long-term energy needs.

To set the record straight, Mr. Chairman, there exists far more deep mineable coal than surface mineable coal. This simple fact is not in question. The controversy arises in looking at the need for coal to meet energy needs in the next 5 to 10 years.

I was rather sorry as a matter of fact when the gentleman from West Virginia (Mr. HECHLER) presented his amendment that we did not indulge in more discussion relative to the long term-short term satisfaction of energy requirements in our land because in the long term there is abundant energy in the United States. Our problem is to make it available for use.

We have done a number of things legislatively in this country that have made it difficult if not impossible to get energy for use. For instance in connection with the petroleum import quota system that was instituted during the Eisenhower era and still persists today, that system every 6 months is administered differently. We go from one way to another, and the result is that the people who would domestically go into the oil exploration business have been fearful that the administration of that Act would be such as to allow a flood of foreign imports. At the same time the people who would build refining capacity in this country have been fearful that the Act would be administered erratically in another way and not permit enough feedstock to come in to run the refineries. The result has been that we have too few refineries and too little domestic drilling.

Of course there are many other reasons for our domestic shortage, but I want the Members to understand that what the Government does has a great deal to do with the situation and therefore what the Government does is important and has an effect on the industry. Since Ruckelshaus against United States, the findings and objectives and hopes and aspirations that people write into the first couple of sections of their bills to sell them have turned out to be more than just mere puffery.

The Supreme Court has said that if they are in the bill, they must mean something; so when they interpret the law if they have a lot of things that overweighs them on the environmental side and underweighs them on the energy side, we are just going to get decisions on the interpretation of these bills that we pass here that nobody ever dreamed of and if they had dreamed about them and understood them, they would be a nightmare.

To set the record straight, Mr. Chairman, there exists far more deep mineable coal than surface mineable coal. The simple fact is not in question. The controversy arises on the need for coal to meet the energy needs in the next 5 to 10 years before we open up all these energy resources that we have. It is in this period of a decade where we are going to go through a veritable hell in this country because of the energy shortages that are just beneath the surface or far beneath the surface or deceptively for a few months above the surface.

Another aspect of my amendment, Mr. Chairman, is that it takes more time to identify and develop deep coal deposits than it takes to develop coal deposits near the surface. Deep mining is far more expensive than surface mining and it is much more labor intensive. A precipitous turn toward deep mining at this point in time would immediately cut coal production and immediately increase consumer costs for electrical energy.

It would also demand that thousands of Americans make their living in the bowels of the earth in the most dangerous occupation imaginable.

Those who question the morality of surface mining a tiny amount of land to meet the needs of a heavily industrialized urban society are ignoring the even greater moral question of unnecessarily condemning thousands of Americans to lives in the mines for the sake of environmental esthetics.

Several years ago, nearly a hundred miners met horrible deaths in a deep mine disaster at Farmington, W. Va. Since then, dozens have died in similar but less spectacular accidents. Additionally, dozens of thousands of miners have been inflicted with black lung—an odious debilitating disease known only to miners of deep coal.

If we place increasing emphasis on deep mining at the expense of surface mining, we shall be assuring ourselves that hundreds more will die in the mines and thousands more will suffer the pain and agony of black lung.

My amendment sets the record straight by declaring that surface mining—under appropriate controls—is the only way to meet energy needs in this decade. It is also the only way to avoid the human carnage occasioned by widespread dependence upon deep mined coal.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. HOSMER) to the committee amendment in the nature of a substitute.

The amendment to the committee amendment in the nature of a substitute was agreed to.

The CHAIRMAN. Are there further amendments to title I?

AMENDMENT OFFERED BY MS. ABZUG

Ms. ABZUG. Mr. Chairman, I offer two amendments to the committee.

The Clerk read as follows:

Amendments offered by Ms. ABZUG: On page 145, insert between lines 17 and 18 the following new section:

"SEC. 103. The provisions of titles II (Control of Environmental Impacts of Surface Coal Mining), V (Office of Surface Mining Reclamation and Enforcement), VI (A Program for Non-Coal-Mine Environmental Impact Control) of this Act and sections 701, 703, 704, 706, 707, 708, 709, and 712 of title VII of this Act, shall be administered and enforced by the Administrator of the Environmental Protection Agency through the Director of the Office of Surface Mining Reclamation and Enforcement established by this Act. The provisions of titles III (Indian Lands Program), IV (Abandoned Mine Reclamation), and VII (State Mining and Mineral Resources Research Institutes) of this Act shall be administered and enforced by the Secretary of the Interior. It shall be the duty of the Administrator, the Director, the Secretary, and all other Federal officials and employees and the States having responsibilities to carry each of their responsibilities under this Act promptly and efficiently in accordance with the purposes of this title."

On page 145, line 16, strike the words "the Secretary," and insert therein "any Federal agency".

Ms. ABZUG. Mr. Chairman, I ask unanimous consent that the amendments be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentlewoman from New York?

Mr. HOSMER. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Ms. ABZUG. Mr. Chairman, I wish to consider the two amendments as they refer to the sections in title I.

Mr. HOSMER. I did not hear what the gentlewoman said.

The CHAIRMAN. The gentlewoman asked that the amendments be considered en bloc.

Is there objection to the request of the gentlewoman from New York?

Mr. HOSMER. Mr. Chairman, further reserving the right to object, is the gentlewoman going to present the rest of her amendments or just the first two en bloc?

Ms. ABZUG. The first two in section 1; the sections of the amendments that are in title I, I have asked to consider en bloc.

Mr. HOSMER. One and two?

Ms. ABZUG. Yes, sir.

Mr. HOSMER. Does the gentlewoman intend to offer an explanation of No. 2?

Ms. ABZUG. I intend to discuss the amendments; yes, sir.

Mr. HOSMER. Does the gentlewoman concede the adoption of her amendments, No. 1 and 2, which are being offered en bloc, does the gentlewoman intend to proceed then to the listed amendments 3 through 8?

Ms. ABZUG. I will make that determination at the time we get to that section.

Mr. HOSMER. I thank the gentlewoman and I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentlewoman from New York?

There was no objection.

Ms. ABZUG. Mr. Chairman, I am offering an amendment that would place the administration of much of this act in the hands of the Environmental Protection Agency. I do so because it is of vital importance that this bill be vigorously implemented if we are to end the senseless rape or our countryside in pursuit of surface coal. After checking the record of the Department of the Interior on this issue, I have concluded, regretfully, that this Department is not prepared to vigorously enforce this legislation.

I have been somewhat concerned in the past few weeks with their effort to cripple this bill, and I therefore find it hard to believe that they would be enthusiastic in the administration of the bill. In a letter of May 29th to the chairman of the Committee on Interior and Insular Affairs, Secretary Morton stated he had concluded that the bill had several objectionable features which had to be changed in order to strike the right balance between our needs for environmental protection and our energy requirements.

Those of us who want to preserve the human environment consider these "objectionable" provisions the very heart of the bill. The Department's idea of a "proper balance" is really a tremendous imbalance in favor of industry. Every loophole and ambiguity of the bill would be utilized, if the Department of Interior is the enforcing agency. Past actions of the Department of Interior confirm our worst fears.

In 1972, a General Accounting Office study showed a dismal record of nonenforcement of environmental standards in coal mining on Federal and Indian lands. The Interior Department has been unable to enforce even these regulations which they find acceptable, instead allowing environmental degradation and abuse of the public interest. If they cannot do an adequate job with their own regulations, what are we to expect on a bill which they have made clear they vehemently oppose?

By contrast, the Environmental Protection Agency has a clear and ongoing interest in protecting the environment and a legislative mandate to do so. Administrator Russell Train and Deputy Administrator John R. Quarles have endorsed H.R. 11500. The EPA has considerable experience in operating permit systems and has a deep knowledge of the problems of water pollution crucial to working on the strip mining issue. I know this of my own experience as a member of the Public Works Committee.

Finally, I believe the EPA has no conflicting interest in the production end of the coal industry, nor is it staffed with coal company alumni like the Department of the Interior. It is eminently qualified to focus on the real purpose of this legislation, the protection of the environment.

The key to any regulatory bill is the quality of this enforcement. If this bill is to do anything to stop the devastation of Appalachia and the Great Plains, its only chance lies in a strong and continuing interest by the Federal Government. Without the Environmental Protection Agency handling it, this long and unholy alliance of the production oriented Department of the Interior and the coal dominated State agencies will insure that H.R. 11500 would merely be the latest in a series of meaningless reclamation laws not worth the paper they are printed on.

Mr. KETCHUM. Mr. Chairman, will the gentlewoman yield?

Ms. ABZUG. I yield to the gentleman from California.

Mr. KETCHUM. Mr. Chairman, I thank the gentlewoman for yielding. The gentlewoman has mentioned the fact that the Department of the Interior apparently is rife with individuals who are members or have been members of the coal industry.

If that is true, I wonder if the gentlewoman might tell me who are the employees of the Environmental Protection Agency? Are they Friends of the Earth,

the League of Conservation Voters, that sort of person? Do they come from industry also?

Ms. ABZUG. They do not come from the coal industry.

Mr. KETCHUM. I thank the gentlewoman.

Mr. UDALL. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, the adoption of this amendment would upset one of the basic compromises the committee made when we began consideration of the legislation. There was the basic question, if we are going to have a new reclamation law, who will enforce it?

The environmentalists said put it in the EPA. The industry says, "Oh, no, put it in the Bureau of Mines."

The environmentalists said, "Well, the Bureau of Mines is a cozy little fiefdom wholly owned by the mining industry," and so forth.

So, one of the compromises we made was to put it in Interior, but to set up a new Office of Surface Mining Reclamation and Enforcement. We believe this is a fair compromise. It will be in an agency, a department, which has had some experience with mining.

EPA causes great fear and trepidation in the minds of business. People in coal mining think they will not get a fair shake from EPA.

Therefore, we think we have a pretty good, balanced solution, and the amendment should be rejected.

Mr. RUPPE. Mr. Chairman, will the gentleman yield?

Mr. UDALL. I yield to the gentleman from Michigan.

Mr. RUPPE. Mr. Chairman, I think we have to point out that EPA actually has a role under this legislation. In fact, they have a signoff on water and air control. They have a mandated signoff. They have a role in situations where they should have a role, and the Department of the Interior and its office carries the brunt and the responsibility where, indeed, they have their role.

Mr. UDALL. The gentleman is correct.

Mr. HOSMER. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. The chair will count. Eighty-four members are present, not a quorum.

The Chair announces that he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

QUORUM CALL VACATED

The CHAIRMAN. One hundred members have appeared. A quorum of the Committee of the Whole is present. Pursuant to rule XXIII, clause 2, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

Mr. HECHLER of West Virginia. Mr. Chairman, I move to strike the requisite number of words, and rise in support of the amendment.

Mr. Chairman, this is a very vital amendment, because it concerns who is going to administer the regulations and who is going to set the guidelines for the administration of this bill.

The gentleman from Arizona mentioned that this administration by the Department of the Interior was the result of a compromise. A 19th century author once wrote:

Compromise makes a wonderful umbrella, but a very poor roof.

In this instance it does make a very poor "roof" indeed. How can we expect that this strip mining legislation is going to be administered in the public interest by the Department of the Interior. The Department of the Interior has already announced its public opposition to this legislation.

How can we expect the foxes to guard the chicken coop and expect the public interest to be protected in the administration of this legislation?

Mr. RUPPE. Mr. Chairman, will the gentleman yield?

Mr. HECHLER of West Virginia. I yield to the gentleman from Michigan.

Mr. RUPPE. Mr. Chairman, the Department of the Interior has reservations about several facets of this legislation. However, on behalf of that agency and Mr. Sawhill's agency, I will offer several amendments, and, generally speaking, with the adoption of those amendments the Interior Department does support the legislation. I will say, in behalf of the Department of Interior, they have stuck pretty hard for a very vigorous enforcement.

Mr. HECHLER of West Virginia. Mr. Chairman, I want to say to the gentleman that is the loudest damning with faint praise that I have ever heard on the floor of this House. In all his public statements, the Secretary of the Interior has categorically expressed his opposition to this legislation.

Mr. LONG of Maryland. Mr. Chairman, will the gentleman yield?

Mr. HECHLER of West Virginia. I yield to the gentleman from Maryland.

Mr. LONG of Maryland. Mr. Chairman, I wish to express my support of the amendment offered by the gentlewoman from New York.

The magic word in environmental control is "enforcement." It matters little what kind of a law we have; if we do not have enforcement, we have nothing. I have seen case after case in Maryland in which pollution has destroyed the environment and has been allowed to run riot without real enforcement. No matter how much we prod these agencies, if they do not have their hearts in it, they are not going to enforce the law.

Mr. Chairman, I commend the gentlewoman for her amendment.

Mr. HECHLER of West Virginia. Mr. Chairman, the gentleman from Maryland is absolutely right.

I have a copy of a newspaper account which is headlined "Train Backs Mine Bill."

The statement is as follows:

Administrator Russell B. Train of the Environmental Protection Agency today broke with the Administration and endorsed the House Interior Committee's strip mine bill.

I do not see how the Committee on Interior and Insular Affairs can come in with a bill that is opposed by the very people they are putting in control of it. The Administrator of the Environmental Protection Agency has announced he supports H.R. 11500.

Why not give the job to somebody who believes in it? The Department of the Interior is basically a management office. It manages land and resources. The Environmental Protection Agency is not a management office; it is an agency which is occupied with setting standards, like the standards on water quality which are so vital in terms of protecting the great water supply of our Nation against the acid pollution which comes from mine drainage, both deep and strip mines. It makes sense to have EPA handle this job of setting guidelines, particularly if we are going to devise a program such as H.R. 11500 has, to put the primary responsibility in the States.

How can we expect the State of West Virginia which is dominated by coal to administer this program when coal has its fingers around the neck of politics in West Virginia all the way from the State house down to the county courthouses, and to the precincts—in fact, I do not know how I have survived there.

But, nevertheless, if you put control of this program in the Department of the Interior I say it is going to be worthless. That is why I support the amendment offered by the gentlewoman from New York (Ms. ABZUG) and I ask for a vote on the amendment.

Mr. HOSMER. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, the strange thing about the Congress is that after somebody in the Congress finds that in the honest-to-God administration of government, that the administrators are departing from their notions of how the administration should be carried forward; they want to take all the duties from that outfit, set up a new government agency, and put the duties over there.

The gentlewoman from New York (Ms. ABZUG) is no less guilty in this respect than the gentleman from Arizona and the gentlewoman from Hawaii, and all the other coperpetrators of H.R. 11500, because they have gone off in the same kind of a snit.

We have a legitimate Government agency that is administering the coal mining laws, and so forth, of this country, and these people from the environmental camp are in a snit about the way they are being administered; they are not paying enough obeisance, or they are not counting enough beads for the environmentalists, so they want to set up their own administrative agency on how to go about this.

These H.R. 11500, hell-or-high-water people, handle this in title V by setting up this so-called Office of Surface Mining, Reclamation, and Enforcement.

The gentleman from Arizona tells the Members that this is a compromise. The gentleman set up a whole stack of straw here, and he just walks right in and says, "You know, the Department of the Interior and the Bureau of Mines are owned by industries, and therefore in a fair compromise I am going to give you this new Office of Surface Mining, Reclamation, and Enforcement, and give that office the powers of these other bureaus."

The gentleman from Arizona speaks a lot around this body. The gentleman from Arizona speaks a lot around these committees. The gentleman from Arizona speaks a lot in the conferences. The gentleman from Arizona speaks a lot on television and over the radio, and the gentleman has some very legitimate aspirations, I am sure, for so doing. But I cannot accept as whole cloth and unbiased his allegations that responsible bureaus of our Government are owned by any outside force. These bureaus down here, and the Secretaries, and the rest of the people in our Government, if nothing else, are honorable people. They have had to work hard. They have had to learn their jobs. They have had to learn to live under Democratic administrations and under Republican administrations. They have had to try to do what was right under both of them, despite all the noise that they hear from the Hill, and the allegations and the challenges and the slanders and the depredations that are going against some Congressmen's wishes.

Mr. UDALL. Will the gentleman yield?

Mr. HOSMER. I yield to the gentleman from Arizona.

Mr. UDALL. I thank the gentleman for yielding.

The gentleman misunderstood me. I think the people at the Bureau of Mines by and large are fine, hard working public servants. I have no one to single out.

Mr. HOSMER. Mr. Chairman, I decline to yield further.

The gentleman said industry was owned by the Bureau of Mines.

Mr. UDALL. If the gentleman will yield, no, the gentleman misunderstood me.

Mr. HOSMER. It is not owned by the Bureau of Mines?

Mr. UDALL. If the gentleman will yield, no, it is not owned by the Bureau of Mines. What I said was that many of the environmentalists thought and alleged that they could not get a fair shake from the Bureau of Mines, just as industry was arguing that they could not get a fair shake from the EPA.

Mr. HOSMER. All right, so we are to turn it over to the environmentalists to placate them? We have placated them once today on a vote on my substitute. I do not know how far we have to crawl on our knees to get the environmentalists' vote next fall, but I certainly do not interpret that last vote much differently than an effort at a crawling-on-the-knees kind of thing. The "Green Bigot Brigade" had their whips out and lashed it all down, and we are going to live under it, but we are going to freeze in the dark under it, too, I am afraid.

Outside on the wire UP item No. 1089 said as follows:

Battered by continued heavy inflation, the output of the nation's economy slumped for the second straight quarter from April through June, the Commerce Department reported today.

If we put in all of the environmentalists' interests that either the gentlewoman from New York or the authors of the "Hell-or-high-water bill" want, we are going to push that slump a lot farther down in the economy and put it in a lot worse shape than we have got it already.

I suggest a "no" vote on the amendments.

The CHAIRMAN. The time of the gentleman has expired.

Mr. DENT. Mr. Chairman, I move to strike the last word, and I rise in opposition to the amendment.

Mr. Chairman, I do not like to oppose this amendment except for the reason that it is not taking into consideration the most serious element in this whole picture. While the environmental interest is of grave concern to all of us, we must also have concern about the lives of the men who work in these open pits. The greater portion of our whole problem is the mine safety laws, if we remove the mine safety laws from the Bureau of Mines administrative agency, and all of the features of coal mining, over to an agency that has no authority for the administration of the mining laws themselves. However, there is an answer to it, and I think that if we will wait just a minute, we will find that our answer to it is workable. It is just. It does not interfere one bit with the mining of the coal itself physically, and it does not interfere with the environment and the ecology in that operation. Why? Because we took our Bureau of Mines, we took our environmental agency, we took all of our minerals, the sand, the gravel, all of the mining done in Pennsylvania by strip mining and deep mining, and we put it all under the Environmental Protection Resources, and that is the head organization.

There are 17 agencies under that one head, so that all of the environmental problems that interlace with each other and cross over into each other, like the environmental problems in building a road or different problems with a coal mine right next door, are in one agency which combines the interests. We can do that, and it should be done. Whether we can do it at this point or not, I do not know, but we cannot do it with a shotgun approach to eliminate that interest that is the first and foremost—the mineworker's life, limb, and safety. That is all there is to it.

Mr. HECHLER of West Virginia. Mr. Chairman, will the gentleman yield?

Mr. DENT. I yield to the gentleman from West Virginia.

Mr. HECHLER of West Virginia. I thank the gentleman for yielding.

This bill has absolutely nothing to do with mine safety. I think the gentleman and I would agree that there is perhaps argument for transferring the Mining Enforcement and Safety Administration from the Department of the Interior to the Department of Labor, or something like that.

This bill has absolutely nothing to do with mine safety. The gentlewoman from New York by her amendment merely transfers from the Department of the Interior to EPA the control over surface mining. It has nothing to do with mine safety.

Mr. DENT. Does the gentleman mean he does not have any mine safety inspectors in West Virginia?

Mr. HECHLER of West Virginia. This has nothing to do with mine safety.

Mr. DENT. If we transfer this to EPA, it has nothing to do with mine safety?

Mr. HECHLER of West Virginia. Absolutely nothing. Mine safety is not covered by any of the language in this bill.

Mr. DENT. But we have to mine coal and if we have to mine coal we have to characterize mine safety.

We in Pennsylvania believe this will not interfere with environmental protection. We put the deep mining and the strip mining under the environmental protection in our State. I believe the compromise arrived at in Pennsylvania on that point was the best they could do.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from New York (Ms. ABZUG) to the committee amendment in the nature of a substitute.

Mr. HOSMER. Mr. Chairman, on that I demand a division, and pending that I make the point of order a quorum is not present.

The CHAIRMAN. The Chair will count.

One hundred Members are present, a quorum.

The question was taken; and on a division (demanded by Mr. HOSMER) there were—ayes 14, noes 74.

Mr. HOSMER. Mr. Chairman, I demand a recorded vote.

A recorded vote was refused.

So the amendment to the committee amendment in the nature of a substitute was rejected.

Mr. DINGELL. Mr. Chairman, I ask unanimous consent to revise and extend my remarks at this point in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

Mr. HOSMER. Mr. Chairman, reserving the right to object, I could not hear what the gentleman from Michigan was saying. I had no idea whether it was a unanimous-consent request or what. Will the gentleman take the microphone and explain what he is asking the Committee to do?

Mr. DINGELL. I am glad to have the attention of my friend, the gentleman from California. For his information I ask unanimous consent to revise and extend my remarks at this point in the RECORD.

Mr. HOSMER. I thank the gentleman from Michigan. I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to

the request of the gentleman from Michigan?

There was no objection.

Mr. DINGELL. Mr. Chairman, there are several matters in the bill that deserve some discussion during this debate in order to provide a clear statement of interest on the part of this House.

First, the committee's report (H. Rept. 93-1072) quite properly states—page 76—that the "success or failure of a national coal surface mining regulation program will depend, to a significant extent, on the role played by citizens in the regulatory process." I agree.

The committee's report then notes that sections 202 and 203 provide an opportunity for broad citizen participation in the development of regulations and the approval of State programs. In each case, at least one public hearing is required at which any person can participate by providing oral and or written comments. In addition, section 202 provides that any "interested" person can submit written comments on proposed regulations. Any citizen who takes the trouble to prepare and submit such comments clearly is an "interested" person.

Section 214(b) of the bill provides that any person "with a valid legal interest—shall have the right to file written objections" to a proposed surface mining and reclamation operation. I think the term "valid legal interest" is ambiguous and vague. I don't know who would qualify under this term. The committee's report—page 78—seems to equate this term with the judicial test of "standing" enunciated by the Supreme Court. I think this is a troublesome approach, because it will lead to administrative confusion and lengthy and costly litigation. The Secretary is simply not capable of deciding who does or does not have "standing" to exercise his right to file objections and request a hearing. Thus, I am pleased to see that this section does not preclude the possibility of any citizen—who may not have such an "interest"—from filing such "objections" and requesting a hearing.

Indeed, under the bill, if any citizen timely files written objections and requests a hearing, the Secretary must hold such hearing, because the bill does not require that only those who meet the "standing" test shall be entitled to a hearing. It merely gives such person a "right" to object. As I have said, it does not preclude others from requesting such a hearing.

My remarks apply equally to section 217(f), 211, and 201 of the bill.

Second. The bill sets forth a clear procedure for public, judicial, and interagency review of regulations, standards, et cetera, in a timely fashion. It is my understanding, based upon a reading of the bill, the report, and discussions with commitee members, that it is the clear intention of the committee and now the House that these regulations, standards, et cetera, shall not be subject to any other interagency review, such as that prescribed by the Office of Management and Budget in its memorandum of October 5, 1971, to all agency heads and referred to on page 11 of House Report 92-1323 of August 10, 1972. Interior must prepare regulations and standards and publish them for public review. During this review period—and not before—all Federal agencies, including EPA and OMB, will have an opportunity to comment. All such agency comments must be in writing and available to the public.

Third. Section 203 of the bill provides for the approval or disapproval of State programs. It states (page 160):

> The Secretary shall approve or disapprove a State program in whole or in part, within six full calendar months after the date such State program was submitted to him.

This is a mandatory requirement on the Secretary. If he does not act within this time frame, any citizen can sue him under section 223 of the bill.

Fourth. I am pleased to note that the committee bill does not expressly or impliedly affect the National Environmental Policy Act of 1969 in any way. The policies and procedures of NEPA will apply to various actions taken under this bill.

Fifth. I note that section 224 of the bill provides for the assessment of civil penalties for violation of title II of the bill. In some cases, such penalties are mandatory.

This House is fully aware of the debacle made thus far by Interior of the civil penalty provisions of the Federal Coal Mine Health and Safety Act of 1969. We do not want a repeat performance here. Interior must prepare and publish for public comment its procedures for implementing this civil penalty section. Those procedures must be streamlined and aimed at assessing and collecting penalties promptly. It must include in the regulations criteria which it must follow—including its administrative law judges—for applying the several factors for determining the amount of a penalty in section 224(a).

No provision is made in the bill for compromise or mitigation of civil penalties. The Federal Claims Collection Act of 1966 (31 USC 951, et seq.) will however applied. But the compromise authority of that act should be applied sparingly. If the several factors of section 224(a) are applied effectively and fairly, such compromise, and so forth, should never be necessary. Where compromise is made, it must be well documented.

Meetings, consultations, and so forth, with violators or their representatives for any purpose must be documented in the violation files and such files et cetera, are open for public inspection and review.

The offset provisions of the Federal Claims Collection Standards (4 CFR 102.3) shall apply to those penalties. See GAO opinion of February 16, 1973, B-170686.

Most importantly, the Department must hire and train adequate personnel, including lawyers, clerks, and administrative law judges to carry out this section.

The CHAIRMAN. Are there any further amendments to title I?

AMENDMENT OFFERED BY MR. HOSMER TO THE COMMITTEE AMENDMENT IN THE NATURE OF A SUBSTITUTE

Mr. HOSMER. Mr. Chairman, I offer an amendment to the committee amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. HOSMER to the committee amendment in the nature of a substitute: Page 144, line 4. Strike out "SEC. 102." and insert a "SEC. 102." to read as follows:

SEC. 102. It is the purpose of this Act to—

(a) encourage a nationwide effort to regulate surface coal mining operations to prevent or substantially reduce their adverse environmental effects, to stimulate and encourage the development of new, environmentally sound surface coal mining and reclamation techniques, and to assist the States in carrying out programs for those purposes;

(b) assure that the rights of surface landowners and other persons with a legal interest in the land or appurtenances thereto are protected from the adverse impacts of surface coal mining operations pursuant to the provisions of this Act;

(c) assure that surface coal mining operations are not conducted where reclamation as required by this Act is not feasible;

(d) assure that the coal supply essential to the Nation's energy requirements, and to its economic and social well-being is provided in accordance with the policy of Mining and Minerals Policy Act of 1970; and

(e) assure that appropriate procedures are provided for public participation in the development, revision, and enforcement of regulations, standards, mining and reclamation plans, or programs established by the Secretary or any State pursuant to the provisions of this Act.

Mr. HOSMER. Mr. Chairman, we have not succeeded very well in getting the full membership of the Congress or this House to read what is in this bill; so I thought that it might be a nice idea to read what was in my substitute. I am not going to read what is in the "Hell-or-high-water" section 102; but this section has to do with the purposes of this act.

I mentioned in my statement regarding my amendment to section 101, that since Ruckelshaus against United States these findings and purposes clauses have a meaning and we have to be careful what we put in them if we want to get any kind of a reasonable interpretation on the bill.

Now, what is the situation with respect to section 102 of H.R. 11500 as it is now written? It states the purpose of the bill and in doing so reveals the environmental zealousness of the members of the staff who compose what I regard as this assault upon commonsense. In 10 paragraphs, comprising 263 words, we are time and time again told that this bill is written to protect the environment and to assure public participation in the "development, revision, and enforcement of regulations, standards, reclamation plans, or programs established by the Secretary or any State under this act."

In only one short spare little paragraph is it even suggested that the Congress is concerned about the future supply of coal and the adequacy of energy to support this Nation's economy.

Picture, if you will, some bureaucrat or court of law in the future trying to determine congressional intent in the passage of such a bill. What choice would this official have but to conclude that Congress cared more, very much more, about esthetics than anything else and cared not about assuring a dependable source of energy.

We will recall that in our previous colloquys about the two Sawhill letters, one of them postulated what would be the interpretation, the inflexible interpretation, of H.R. 11500. It would result in a very large amount of coal being taken out of production.

It was that we would preclude from production up to 187 million tons out of a total production of 300 million tons of surface mined coal annually. That is about two-thirds of all surface mined coal. Then, the second Sawhill letter was in answer to a request to give a figure for loss in the event there were a flexible interpretation, of H.R. 11500. The estimated loss was considerably less; nevertheless, it was a loss.

Furthermore, the second Sawhill letter point out that in H.R. 11500 as written, and I am sure Mr. Sawhill had in mind this very section 102, there was little chance that the law would be interpreted and administered in any but an inflexible way. That means that should we pass this bill, particularly with this section 102 in the form that it is written in H.R. 11500, instead of the form that I have offered as an amendment here, the lid will be nailed down again with another antienergy nail, that makes it more and more difficult to get the power we need to run our country.

My amendment rephrases this section to assure that future interpreters of this act will clearly understand that meeting our energy needs is at least as important as the environmental ethic—not more important, just at least as important.

During the recent debate on land use policy legislation, one of the proponents of the committee bill crudely threatened that Members who voted against that measure might find their names on some future "dirty dozen" list. I submit that Members who bow to this sort of heavy-handed pressure—and I am sorry to say that the vote earlier today seems to indicate that many Members did—and who ignore the desperate need for energy supplies, are asking to have their names placed on an even longer list of those who missed the opportunity to prevent misery and unemployment, depression and disaster.

Mrs. MINK. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, there is a very great, substantive difference between the amendment which has been offered by the gentleman from California in the purpose section of the Hosmer bill as compared to the purpose section which we have very carefully written in our bill H.R. 11500.

In the first place, our bill makes reference to surface impacts in underground coal mining. There was a very extensive discussion which was had in the subcommittee and in the committee, which convinced us that it was not only essential for the bill to address the problems of the surface problems with regard to strip mining, but also much impacts that were evident as a result of underground coal mining operations. Such things as acid drainage, runoffs and other kinds of possible pollution of water, streams, and so forth from either abandoned or existing underground coal mine operations.

The pending Hosmer amendment, or substitute for section 102, would completely strike that aspect of our legislation and would make very, very deep inroad to the overall coverage of our legislation.

Second, subparagraph (b) or our bill H.R. 11500 requires that the Secretary in administering this bill establish priorities with regard to a nationwide program in order to determine the types of underground operations that are being undertaken in various parts of the country, determine their impacts on the environment, their locations of these mining activities, whether they are concentrated near population centers and what the impact of these operations might have on the future land uses of the area. We considered that a very important aspect of our legislation.

The third major change of the Hosmer substitute eliminates a very important protection of the property right. We have had extensive discussion about the rights of property owners, and while we admit those probably will be the subject of future amendments, nevertheless in order to keep the concept as a viable concept and a slated purpose of this legislation, we cannot accept the Hosmer language which merely says that his intent is to assure the rights of surface owners from adverse impacts of surface operations.

The whole purpose of the discussion on property owners is to protect their property rights, not just adverse impacts, so that particular paragraphs of the pending Hosmer amendment would completely vitiate the efforts of the committee to address themselves to this very important issue.

The fourth item of difference is a matter presented in paragraph (f) of our bill which says we want mining operations and operators to bear in mind that they have concurrent responsibilities toward reclamation, that they cannot only continue to dig out the coal from day to day and not have a continuing operating procedure which has a simultaneous reclamation feature to it.

The last aspect of the amendment does away completely with one of the purposes of the bill which is to deal with restoration of orphaned lands.

As the Members know, our bill takes up not only reclamation, but establishes a procedure for helping these States which had these lands mined in the past, by giving them power and funds to restore these lands, to bring them back into full utilization.

Mr. Chairman, I would urge the House to vote down this amendment and sustain the major purposes of this legislation by voting with the committee. I ask for a "no" vote on the amendment.

Mr. HOSMER. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count. Seventy-nine members are present, not a quorum.

The Chair announces that he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to rule XXIII, clause 2, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

The question is on the amendment offered by the gentleman from California (Mr. HOSMER) to the committee amendment in the nature of a substitute.

The question was taken; and on a division (demanded by Mr. HOSMER) there were—ayes 17, noes 37.

Mr. HOSMER. Mr. Chairman, I demand a recorded vote.

A recorded vote was refused.

So the amendment to the committee amendment in the nature of a substitute was rejected.

AMENDMENT OFFERED BY MR. SYMMS

Mr. SYMMS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SYMMS: On page 143, following line 11, add a new subsection (f), as follows:

Every resident of the United States of America has a right to the benefit of full production, subject only to economic considerations, of coal as an energy fuel with respect to his comfort and employment and may enforce that right before any United States District Court.

And reletter the subsequent subsections.

The CHAIRMAN. The Chair will state that this is an amendment to section 101 in title I, which has already been amended in its entirety, and therefore the amendment is not in order.

Are there further amendments to title I?

Mr. HOSMER. Mr. Chairman, I make the point of order that a quorum is not present.

Mr. RONCALIO of Wyoming. Mr. Chairman, I ask unanimous consent that the gentleman from California——

The CHAIRMAN. The gentleman from California (Mr. HOSMER) has made the point of order that a quorum is not present. The Chair will count. One hundred Members are present, a quorum.

The Committee will resume its business.

Are there further amendments to title I?

PARLIAMENTARY INQUIRY

Mr. KETCHUM. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. KETCHUM. Mr. Chairman, I do not recall, but I believe I have been here the whole time, and I do not recall when the bill was originally read that it was going to be read section by section. I had understood it was to be read title by title, and we could amend it at any point at that time.

The CHAIRMAN (Mr. SMITH of Iowa).

The Chair will state that the bill is being read title by title.

Mr. KETCHUM. Then why, Mr. Chairman, may I ask, is the gentleman from Idaho (Mr. SYMMS) not able to offer his amendment to section 101.

The CHAIRMAN. The Chair will state that that is because section 101 of title I has been amended in its entirety, and therefore a further amendment to that section would not be in order.

AMENDMENT OFFERED BY MR. SYMMS TO THE COMMITTEE AMENDMENT IN THE NATURE OF A SUBSTITUTE

Mr. SYMMS. Mr. Chairman, I offer an amendment to the committee amendment in the nature of a substitute.

The Clerk read as follows:

Amendment to the committee amendment in the nature of a substitute offered by Mr. SYMMS: On page 145, following line 16, add a new subsection (k), as follows: Assure that every resident of the United States of America has a right to the benefit of full production, subject only to economic considerations, of coal as an energy fuel with respect to his comfort and employment and may enforce that right before any United States District Court.

Mr. RONCALIO of Wyoming. Mr. Chairman, will the gentleman yield?

Mr SYMMS. I yield to the gentleman from Wyoming.

(By unanimous consent Mr. RONCALIO of Wyoming was allowed to speak out of order.)

PERSONAL EXPLANATION

Mr. RONCALIO of Wyoming. I am indebted and grateful to the gentleman from Idaho for yielding.

Mr. Chairman, I reluctantly announce that during the past hour and a half I was called over to the Senate side on three occasions to try to finish lunch with a visiting group from Wyoming and two of my colleagues in that body. I regret that I missed the vote on the amendment offered by the gentleman from West Virginia (Mr. HECHLER). Had I been here, I would have reluctantly voted against it.

Mr. SYMMS. I thank my friend, the gentleman from Wyoming, for his contribution.

Mr. Chairman, my amendment is what would be called the consideration of the workingman's amendment. It would give the workingman and people who are involved in coal mining the same rights as other groups would have to go to the district court and to enforce the fact that if the coal is available, they would be able at least to get a hearing in court, the same hearing that the Sierra Club or some other group would have to stop the mining of coal, and they would have the same right to go before the court to have coal mined.

The proponents of this legislation have assured us that this will not preclude coal mining, so with that in mind, I think that there should be no opposition to this amendment. I would be surprised if there were opposition to the amendment. I think that this amendment would only put into the legislation the assurance that economic considerations will have equal hearing under the law as will environmental considerations.

Mr. RUPPE. Mr. Chairman, will the gentleman yield?

Mr. SYMMS. I yield to the gentleman from Michigan.

Mr. RUPPE. I thank the gentleman for yielding.

Looking at this amendment which indicates that each resident of the United States has a right to the full production of coal, does that mean that in those cases where an individual does not have to permit a mining company to enter onto his property if he is a surface owner, his rights to keep off an individual company are cast aside by this amendment, and that the right to mine coal, regardless of the surface owner's reservations or ownership, is simply disregarded? I would be very concerned about that.

Mr. SYMMS. I thank the gentleman for asking that question.

No; it does not. It only assures that the workingman would have the opportunity in court, to assure that the intention of this Congress is that they also will have equal consideration in the district court.

Mr. HOSMER. Mr. Chairman, will the gentleman yield?

Mr. SYMMS. I yield to the gentleman from California.

Mr. HOSMER. I thank the gentleman for yielding.

This amendment that is being offered by the gentleman is being offered in contemplation of how section 102 might be interpreted by a court or might be interpreted by an administrator of this law; is that correct?

Mr. SYMMS. The purpose of this amendment is so that is will be interpreted fairly by the people who write the Federal Register and write the regulations also so that there will be no misunderstanding on their part as to what was the intention of this Congress when we wrote this legislation into law.

As we have already been assured by the proponents of this legislation—it is not going to prevent coal mining, so there will be coal mining, but it will assure the opportunity for people to have employment when coal is available and assure that they will not be locked out of economic consideration due to the fact that some group is interested in the environmental reasons, but that equal opportunity in the courts will be given to both.

Mr. HOSMER. If the gentleman will yield further, is it the gentleman's impression that section 102 as now written overweighs consideration for the environmental ethic at the expense of the energy ethic?

Mr. SYMMS. The gentleman from Idaho is not presuming anything but I would prefer to have it very clear in this legislation that full consideration will be given to the economics of it. This may be 100 years down the road or next year, but I want to have it so that when the Federal Register will be written by the agency it will be understood in the RECORD that economic consideration will have equal consideration with the environmental consideration and that these workingmen will have the right to have employment if there is a need and a demand for coal. If coal is being locked up for environmental reasons I want to have the economic reasons be given equal consideration under the law.

Mr. HOSMER. Is it the intention of the gentleman that section 102 if amended would be interpreted so as to give equal consideration to the environmental ethic with the energy ethic?

Mr. SYMMS. With this amendment I think it would, yes.

Mr. HOSMER. I certainly want to congratulate the gentleman because we go through many periods in our history where there is a great amount of emotion and a great amount of excitement about certain things.

The CHAIRMAN. The time of the gentleman from Idaho has expired.

Mr. HOSMER. Mr. Chairman, I rise in support of the amendment offered by the gentleman from Idaho (Mr. SYMMS).

Mr. Chairman, I remember when I was a youngster in junior high school around 1927 when Col. Charles Lindbergh, then a captain, flew nonstop across the Atlantic Ocean from New York to Paris. That was one of the most exciting events of those times. As a consequence of that, the Nation embraced the airplane to its heart and all around the country "Lindy" clubs were formed and all of the kids marked the roofs of their schools with the name of their town, and an arrow pointing north. All of the grownups went down to the airport every Saturday and Sunday and took the kids and did nothing but watch the airplanes come in and out. There was great excitement. There was then an almost hypnotic focus on the airplane and things that had to do with the airplane.

It has been awhile since 1927 and the wheel has kept turning and a great many other things have come up that are high in the Nation's attention and deep in the hearts of its people and have achieved a hypnotic focus in the public eye.

Indeed, and, in fact, over the last few years, concern for the environment has been one of those things. Concern for the environment is a good thing. The "Lindy" clubs were good things. The airplane is a good thing. In our society there are a great many good things.

I am proud that our society offers us these things. Over 200 million people can find, in the United States, something that they hold dearer than all other things, but they do not hold such things dearer to the exclusion of all other things because they well realize that even in a simple society, let alone in a complicated technological society such as ours, many, many considerations are important, many, many considerations which, in and of themselves, are in conflict with each other.

Most people realize those conflicts must be resolved in some manner which affords the proper respect to each and all of the values of our society.

Now, if we attempt to legislate in the laws that we write here in the Congress, dictate that some of these equal values will receive more respect than others, then we commence the process of

distorting the fabric and the structure of our society. We introduce artificialities which in the end can prove quite costly.

Nobody back in 1929 in Congress passed a law that said there ought to be a Lindy Club. The kids just did it because they wanted to. But somebody now is trying to pass a law in this Congress that we have got to consider more highly environmental concerns than all other concerns.

Mr. SYMMS. Mr. Chairman, will the gentleman yield?

Mr. HOSMER. I yield to the gentleman from Idaho.

Mr. SYMMS. I thank the gentleman for yielding. I would like to ask unanimous consent to change the lines following number 16 to following line number 17, to put this amendment in proper order, if there are no objections.

The CHAIRMAN. Is there objection to the request of the gentleman from Idaho?

There was no objection.

Mr. SYMMS. Mr. Chairman, and in order to have the amendment be the intent of the author, I would like to ask unanimous consent that the word "only" be stricken from the amendment, so that it reads: "subject to economic considerations", instead of "subject only to economic considerations."

I ask unanimous consent to strike the word "only" and then it will be in the proper form it was intended.

The CHAIRMAN. Is there objection to the request of the gentleman from Idaho?

There was no objection.

Mr. HOSMER. Mr. Chairman, I am happy that the gentleman has made these requests and that we have this amendment in a good shape now.

I would say to the gentleman from Arizona and the gentlewoman from Hawaii that if, indeed, their protestations that the bill is not a creation of the environmental bigots, that they accept the gentleman's amendment, because his amendment will do precisely what I have said, give equal respect to equal values.

Mr. MYERS. Mr. Chairman, I move to strike the last word.

I do this to ask a question of the author of the amendment. As I interpret the amendment, the workers who are digging coal do not relate to the owner of real estate who might decide for a different use of the land after it has been used for strip mining. Would it in any way affect the farmer who decides not to revegetate his farm with regenerating plants and maybe would like to plant growth crops; would his economic impact have any rights in the amendment?

Mr. SYMMS. It would be considered.

Mr. MYERS. But a farmer who decided to use the land differently than this law provides to revegetate the land, what rights does he have?

Mr. SYMMS. If the farmer owns the land and the mineral rights, then he can do what he wishes. If the farmer owns the land, but not the mineral rights, this would be a different situation than where the Federal Government owns the mineral rights. The intent here is to be sure that the intention of this legislation weighs equally for economic considerations, as well as environmental considerations.

Mr. MYERS. I do not know if the gentleman has exactly answered my question. It is the intention of the gentleman that a farmer who owns the mineral rights would have the right to decide the future use of his land and how the land should be returned?

Mr. SYMMS. Yes; if he owns the mineral rights, there would be no argument. We have areas in the West where the people do not own the land, but own the mineral rights. That is a different situation.

The gentleman from Montana (Mr. MELCHER) has an amendment that covers that subject specifically.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Idaho (Mr. SYMMS) to the committee amendment in the nature of a substitute.

The question was taken; and on a division (demanded by Mr. SYMMS) there were—ayes 12; noes 36.

Mr. SYMMS. Mr. Chairman, I demand a recorded vote.

A recorded vote was refused.

So the amendment to the committee amendment in the nature of a substitute was rejected.

Mr. HOSMER. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count. Seventy-two Members are present, not a quorum. The call will be taken by electronic device.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 391]

Archer	Fisher	Murphy, N.Y.
Ashley	Flynt	Passman
Baker	Ford	Powell, Ohio
Brasco	Fraser	Pritchard
Burke, Calif.	Frey	Rangel
Carey, N.Y.	Fulton	Rarick
Chamberlain	Grasso	Reid
Clark	Gray	Reuss
Clawson, Del	Gude	Riegle
Clay	Hanna	Rooney, N.Y.
Conte	Hansen, Idaho	Satterfield
Conyers	Hansen, Wash.	Sikes
Cotter	Harsha	Steed
Coughlin	Hastings	Stuckey
Davis, Ga.	Hébert	Symington
de la Garza	Ichord	Teague
Dellums	Jones, Tenn.	Whitehurst
Diggs	Landrum	Whitten
Dorn	McClory	Wilson,
Drinan	McEwen	Charles H.,
Dulski	Mathis, Ga.	Calif.
Edwards, Calif.	Mills	Young, Alaska
Evins, Tenn.	Minshall, Ohio	
Fish	Moorhead, Calif	

Accordingly the Committee rose; and the Speaker pro tempore (Mr. O'NEILL) having assumed the chair, Mr. SMITH of Iowa, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill H.R. 11500, and finding itself without a quorum, he had directed the Members to record their presence by electronic device, whereupon 366 Members recorded their presence, a quorum, and he submitted herewith the names of the absentees to be spread upon the Journal.

The Committee resumed its sitting.

Mr. HOSMER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, yesterday the gentleman from Arizona (Mr. UDALL) indicated that the schedule for today might conclude around 5 o'clock in the consideration of this bill, so that the Members could make their airplane reservations. I want to ask the gentleman from Arizona (Mr. UDALL) if that is still the intention of the gentleman.

Mr. UDALL. Mr. Chairman, if the gentleman will yield, the intention is subject to some cooperation from those in this Chamber. When we have lights and bells all afternoon, as we have been having, that is one thing; but it is our purpose and hope and belief that we can move to rise at 5 o'clock. We certainly would like to get into title II. But we have a whole series of delays here, which I happen to think were avoidable. If the gentleman from California can assure the chairman of the committee that we can get into title II, then certainly we would want to get out of here at 5 o'clock.

Mr. HOSMER. I would reply to the gentleman that if there are sufficient Members on the floor for the proper consideration of this bill then we can do that, because I am certain by the time they find out what is in the bill then of course they will flee from it.

So we will see how the afternoon proceeds.

Mr. UDALL. Mr. Chairman, I ask unanimous consent that all debate on title I and all amendments thereto cease in 10 minutes.

Mr. HOSMER. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. UDALL. Mr. Chairman, I move that all debate on title I and all amendments thereto cease at 3:50 p.m.

RECORDED VOTE

Mr. HOSMER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 217, noes 176, not voting 41, as follows:

[Roll No. 392]

AYES—217

Adams	Clark	Fulton
Addabbo	Collier	Fuqua
Alexander	Collins, Ill.	Gaydos
Anderson,	Conte	Giaimo
Calif.	Corman	Gibbons
Annunzio	Culver	Gonzalez
Aspin	Daniel, Dan	Goodling
Badillo	Daniels,	Gray
Barrett	Dominick V.	Green, Oreg.
Bennett	Danielson	Green, Pa.
Bergland	Dellums	Griffiths
Bingham	Denholm	Grover
Boland	Dent	Gunter
Bolling	Dingell	Haley
Bowen	Donohue	Hanley
Brademas	Downing	Harrington
Breaux	Drinan	Hays
Brinkley	Eckhardt	Heckler, Mass.
Brooks	Edwards, Calif.	Helstoski
Brown, Calif.	Eilberg	Henderson
Burgener	Erlenborn	Hicks
Burke, Calif.	Eshleman	Hillis
Burke, Mass.	Evans, Colo.	Hogan
Burleson, Tex.	Evins, Tenn.	Holtzman
Burlison, Mo.	Fascell	Horton
Burton, John	Findley	Howard
Burton, Phillip	Fisher	Hungate
Byron	Flood	Johnson, Calif.
Carney, Ohio	Foley	Johnson, Pa.
Casey, Tex.	Ford	Jones, Ala.
Chappell	Forsythe	Jones, N.C.
Chisholm	Fraser	Jordan

Karth	O'Neill	Smith, N.Y.
Kastenmeier	Owens	Staggers
Kyros	Patman	Stanton,
Leggett	Patten	James V.
Lehman	Pepper	Stark
Lent	Perkins	Stephens
Litton	Peyser	Stokes
Long, La.	Pike	Stratton
Long, Md.	Podell	Stubblefield
Lott	Preyer	Stuckey
Luken	Price, Ill.	Sullivan
McCloskey	Price, Tex.	Thompson, N.J.
McCormack	Pritchard	Thornton
McDade	Quie	Tiernan
McFall	Quillen	Traxler
McKay	Rangel	Udall
McSpadden	Rees	Ullman
Macdonald	Reid	Van Deerlin
Madden	Rinaldo	Vander Veen
Mahon	Roberts	Vigorito
Mathias, Calif.	Robison, N.Y.	Waldie
Matsunaga	Rodino	Walsh
Mazzoli	Roe	White
Meeds	Rogers	Whitten
Melcher	Roncalio, Wyo.	Widnall
Metcalfe	Roncallo, N.Y.	Williams
Mezvinsky	Rooney, Pa.	Wilson, Bob
Milford	Rose	Wilson,
Minish	Rosenthal	Charles H.,
Mink	Rostenkowski	Calif.
Mitchell, Md.	Roy	Wilson,
Moakley	Roybal	Charles, Tex.
Montgomery	Runnels	Wolff
Moorhead, Pa.	Ryan	Wright
Morgan	St Germain	Wylie
Mosher	Sandman	Wyman
Murphy, Ill.	Scherle	Yatron
Murtha	Schroeder	Young, Ga.
Natcher	Seiberling	Young, Tex.
Nedzi	Shipley	Zablocki
Nix	Shuster	Zion
Obey	Sisk	
O'Hara	Smith, Iowa	

NOES—176

Abdnor	Flowers	Nelsen
Abzug	Fountain	Nichols
Anderson, Ill.	Frelinghuysen	O'Brien
Andrews, N.C.	Frenzel	Parris
Andrews,	Frey	Pettis
N. Dak.	Froehlich	Pickle
Archer	Gettys	Poage
Arends	Gilman	Railsback
Armstrong	Ginn	Randall
Ashbrook	Goldwater	Rarick
Bafalis	Gross	Regula
Bauman	Gubser	Rhodes
Beard	Guyer	Robinson, Va.
Bell	Hamilton	Roush
Bevill	Hammer-	Rousselot
Biaggi	schmidt	Ruppe
Biester	Hanrahan	Ruth
Blackburn	Harsha	Sarasin
Boggs	Hechler, W. Va.	Sarbanes
Bray	Heinz	Satterfield
Breckinridge	Hinshaw	Schneebeli
Broomfield	Holifield	Sebelius
Brotzman	Holt	Shoup
Brown, Mich.	Hosmer	Shriver
Brown, Ohio	Huber	Slack
Broyhill, N.C.	Hudnut	Snyder
Broyhill, Va.	Hunt	Spence
Buchanan	Hutchinson	Stanton,
Burke, Fla.	Jarman	J. William
Butler	Johnson, Colo.	Steele
Camp	Jones, Okla.	Steelman
Carter	Kazen	Steiger, Ariz.
Cederberg	Kemp	Steiger, Wis.
Chamberlain	Ketchum	Studds
Clancy	King	Symms
Clausen,	Koch	Talcott
Don H.	Kuykendall	Taylor, Mo.
Cleveland	Lagomarsino	Taylor, N.C.
Cochran	Landgrebe	Thomson, Wis.
Cohen	Latta	Thone
Collins, Tex.	Lujan	Towell, Nev.
Conable	McClory	Treen
Conlan	McCollister	Vander Jagt
Conyers	McKinney	Vanik
Coughlin	Madigan	Veysey
Crane	Mallary	Waggonner
Cronin	Mann	Wampler
Daniel, Robert	Maraziti	Ware
W., Jr.	Martin, Nebr.	Whalen
Davis, S.C.	Martin, N.C.	Whitehurst
Davis, Wis.	Mathis, Ga.	Wiggins
Delaney	Mayne	Winn
Dellenback	Michel	Wyatt
Dennis	Miller	Wydler
Derwinski	Mitchell, N.Y.	Yates
Devine	Mizell	Young, Alaska
Dickinson	Mollohan	Young, Fla.
Duncan	Moorhead,	Young, Ill.
du Pont	Calif.	Young, S.C.
Edwards, Ala.	Moss	Zwach
Esch	Myers	

NOT VOTING—41

Ashley	Flynt	Mills
Baker	Grasso	Minshall, Ohio
Blatnik	Gude	Murphy, N.Y.
Brasco	Hanna	Passman
Carey, N.Y.	Hansen, Idaho	Powell, Ohio
Clawson, Del	Hansen, Wash.	Reuss
Clay	Hastings	Riegle
Cotter	Hawkins	Rooney, N.Y.
Davis, Ga.	Hébert	Sikes
de la Garza	Ichord	Skubitz
Diggs	Jones, Tenn.	Steed
Dorn	Kluczynski	Symington
Dulski	Landrum	Teague
Fish	McEwen	

So the motion was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. All time for further debate on amendments to title I has expired other than those amendments which have been printed in the RECORD.

AMENDMENT OFFERED BY MR. HOSMER TO THE COMMITTEE AMENDMENT IN THE NATURE OF A SUBSTITUTE

Mr. HOSMER. Mr. Chairman, I offer an amendment to the committee amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. HOSMER to the Committee amendment in the nature of a substitute: Page 144, line 4. Strike out "SEC. 102." and insert a new "SEC. 102" to read as follows:

SEC. 102. It is the purpose of this Act to—

(a) encourage a nationwide effort to regulate the surface coal mining operations to prevent or substantially reduce their adverse environmental effects, to stimulate and encourage the development of new, environmentally sound surface coal mining and reclamation techniques, and to assist the States in carrying out programs for those purposes;

(b) provide that the rights of surface landowners and other persons with a legal interest in the land or appurtenances thereto are protected from the adverse impacts of surface coal mining operations pursuant to the provisions of this Act;

(c) provide that surface coal mining operations are not conducted where reclamation as required by this Act is not feasible;

(d) provide that the coal supply essential to the Nation's energy requirements, and to its economic and social well-being is provided in accordance with the policy of Mining and Minerals Policy Act of 1970; and

(e) provide that appropriate procedures are provided for public participation in the development, revision, and enforcement of regulations, standards, mining and reclamation plans, or programs established by the Secretary or any State pursuant to the provisions of this Act.

Mr. HOSMER. Mr. Chairman, I make no apology for my numerous rollcalls and quorum calls today.

I make no apologies because in my view this piece of legislation before us is one of the most important that this House will consider. We have had extreme difficulty in keeping Members on the floor.

Having studied H.R. 11500 and explored its various nooks and crannies, I am quite satisfied that if the rest of the membership knew what was in it to the extent that a few of us know what is in it, we would have an overwhelming vote against it.

Mr. Chairman, it is not pleasant for a Member of this body to come here and agitate the other Members to the extent of trying to get them to stay on the floor to find out what is in a bill. I would not do this if it were not such an important matter.

Without contradiction, this bill, H.R. 11500, is gong to impede the production of coal in this country unnecessarily, and at a time when this Nation desperately needs every Btu of energy it can lay its hands on, and definitely needs, most of all, new domestic energy sources.

I tried, with H.R. 12898 to bring a bill into this House that would not have even let anyone dig a pound of coal by surface mining methods unless he first, could reclaim the land, and second were absolutely forced to do so. That was a pretty reasonable proposition, in my mind. It respected the environmental interests. It respected the energy interests.

In connection with the bill before us now, H.R. 11500, we are going to lose, according to the experts—and I do not include the gentleman from Arizona or the gentlewoman from Hawaii as experts on the extraction of coal by surface mining methods, because neither of them has ever taken a pound of coal out of the ground, and for that matter, I have not done so myself—so I had to go to the experts down at the Bureau of Mines and find out what will happen. They assure us, including Mr. Sawhill, that if this Nation and this Congress goes down this route, we are going to lose anywhere from two-thirds of our production down to about 10 percent.

The loss of any amount at this time in our history is unconscionable.

We have abundant energy in this country, but we have not cranked up to get it out of the ground and we have not cranked up to get it out of the nuclear reactors. It is going to take us about 10 years to get over this present energy crisis, this short-term crisis.

If we make an investment of around $500 to $600 billion in new extractive machinery, and other capital resources, we will, after a decade or so, put ourselves in a position where we will be over the short-term energy crunch and back again to the traditional position of American abundance in energy. However, we simply have to get through this 10-year period.

Even such an authority as Philip Handler, the president of the National Academy of Sciences, tells us that it takes about 10 years to get anything done in this country. And that the only way anyone can, in that short-term period of 10 years, augment the domestic energy supplies to any extent is to utilize the shortest leadtime methods there are. And, those are surface coal mining methods. There is enough coal that can be mined from surface mines in this country, if we take it as fast as we can, to carry us through to the year 2000.

Why should we not, if we can get the coal at this time to tide us over this decade of despair, go after it and get it? That is the point I am trying to make.

What we have before us is a bill, H.R. 11500, that was written by people who did not look at this situation in that way and who looked at it only from the environmental standpoint. They have come up with an overweighted, unbalanced bill. For that reason I must offer amendment after amendment in order to try to get

the bill balanced in its approach to the major problem of our times—adequate energy to power America's complicated technological society.

Mrs. MINK. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

This has already been considered by the committee. The only change that has been offered by this amendment, as distinguished from the one we already voted down, is that each paragraph begins with the word, "provide." In the amendment we defeated, the word was "assure."

Mr. Chairman, I ask the Members, for the same reasons we pointed out before, to vote down this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. HOSMER) to the committee amendment in the nature of a substitute.

The question was taken.

RECORDED VOTE

Mr. HOSMER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 146, noes 250, not voting 38, as follows:

[Roll No. 393]

AYES—146

Abdnor	Gray	Poage
Alexander	Gross	Price, Tex.
Archer	Gubser	Quie
Arends	Guyer	Randall
Ashbrook	Hammer-schmidt	Rhodes
Bauman	Hébert	Roberts
Beard	Hillis	Robinson, Va.
Bevill	Hinshaw	Rousselot
Blackburn	Hogan	Runnels
Bowen	Holifield	Ruth
Bray	Holt	Sandman
Brown, Ohio	Hosmer	Satterfield
Broyhill, Va.	Huber	Scherle
Buchanan	Hudnut	Sebelius
Burgener	Hungate	Shriver
Burleson, Tex.	Hunt	Skubitz
Butler	Hutchinson	Slack
Camp	Jarman	Snyder
Carter	Jones, Ala.	Spence
Casey, Tex.	Jones, Okla.	Steed
Cederberg	Kemp	Steiger, Ariz.
Chamberlain	Ketchum	Stephens
Clancy	Kuykendall	Stubblefield
Clausen, Don H.	Landgrebe	Symms
Cochran	Latta	Talcott
Collier	Lott	Taylor, Mo.
Collins, Tex.	Lujan	Taylor, N.C.
Conlan	McCollister	Thomson, Wis.
Crane	McSpadden	Thone
Daniel, Dan	Mahon	Thornton
Daniel, Robert W., Jr.	Mann	Towell, Nev.
Davis, S.C.	Martin, Nebr.	Treen
Davis, Wis.	Martin, N.C.	Veysey
Dennis	Mathis, Ga.	Waggonner
Derwinski	Mayne	Wampler
Dickinson	Michel	Whitehurst
Downing	Milford	Wiggins
Duncan	Miller	Wilson, Bob
Edwards, Ala.	Mills	Wilson, Charles, Tex.
Erlenborn	Mizell	Winn
Evins, Tenn.	Mollohan	Wright
Findley	Montgomery	Wyatt
Fisher	Moorhead, Calif.	Wydler
Flowers	Myers	Wyman
Fountain	Nelsen	Young, Alaska
Frelinghuysen	Nichols	Young, S.C.
Frey	Parris	Zion
Froehlich	Pettis	Zwach
Gettys	Pickle	

NOES—250

Abzug	Andrews, N.C.	Badillo
Adams	Andrews, N. Dak.	Bafalis
Addabbo	Annunzio	Barrett
Anderson, Calif.	Armstrong	Bell
Anderson, Ill.	Aspin	Bergland
Biaggi	Hamilton	Pritchard
Biester	Hanley	Quillen
Bingham	Hanrahan	Railsback
Blatnik	Harrington	Rangel
Boggs	Harsha	Rarick
Boiling	Hastings	Rees
Brademas	Hawkins	Regula
Breaux	Hays	Reid
Breckinridge	Hechler, W. Va.	Reuss
Brinkley	Heckler, Mass.	Rinaldo
Brooks	Heinz	Robison, N.Y.
Broomfield	Helstoski	Rodino
Brotzman	Henderson	Roe
Brown, Calif.	Hicks	Rogers
Brown, Mich.	Holtzman	Roncalio, Wyo.
Broyhill, N.C.	Horton	Roncallo, N.Y.
Burke, Calif.	Howard	Rooney, Pa.
Burke, Fla.	Johnson, Calif.	Rose
Burke, Mass.	Johnson, Colo.	Rosenthal
Burlison, Mo.	Johnson, Pa.	Rostenkowski
Burton, John	Jones, N.C.	Roush
Burton, Phillip	Jordan	Roy
Byron	Karth	Roybal
Carney, Ohio	Kastenmeier	Ruppe
Chappell	King	Ryan
Chisholm	Koch	St Germain
Clark	Kyros	Sarasin
Cleveland	Lagomarsino	Sarbanes
Cohen	Leggett	Schneebeli
Collins, Ill.	Lehman	Schroeder
Conable	Lent	Seiberling
Conte	Litton	Shipley
Conyers	Long, La.	Shoup
Corman	Long, Md.	Shuster
Coughlin	Luken	Sisk
Cronin	McClory	Smith, Iowa
Culver	McCloskey	Smith, N.Y.
Daniels, Dominick V.	McCormack	Staggers
Delaney	McDade	Stanton, J. William
Dellenback	McFall	Stanton, James V.
Dellums	McKay	Stark
Denholm	McKinney	Steele
Dent	Macdonald	Steelman
Devine	Madden	Steiger, Wis.
Dingell	Madigan	Stokes
Donohue	Mallary	Stratton
Drinan	Maraziti	Stuckey
du Pont	Matsunaga	Studds
Eckhardt	Mazzoli	Sullivan
Edwards, Calif.	Meeds	Symington
Eilberg	Melcher	Talcott
Esch	Metcalfe	Tiernan
Eshleman	Mezvinsky	Traxler
Evans, Colo.	Minish	Udall
Fascell	Mink	Ullman
Fish	Mitchell, Md.	Van Deerlin
Flood	Mitchell, N.Y.	Vander Jagt
Foley	Moakley	Vander Veen
Ford	Moorhead, Pa.	Vanik
Forsythe	Morgan	Vigorito
Fraser	Mosher	Waldie
Frenzel	Moss	Walsh
Fulton	Murphy, Ill.	Ware
Fuqua	Murtha	Whalen
Gaydos	Natcher	White
Giaimo	Nedzi	Whitten
Gibbons	Nix	Widnall
Gilman	Obey	Williams
Ginn	O'Brien	Wilson, Charles H., Calif.
Goldwater	O'Hara	Wolff
Gonzalez	O'Neill	Yates
Goodling	Owens	Yatron
Green, Oreg.	Patman	Young, Fla.
Green, Pa.	Patten	Young, Ga.
Griffiths	Pepper	Young, Ill.
Grover	Perkins	Young, Tex.
Gude	Pike	Zablocki
Gunter	Podell	
Haley	Preyer	
	Price, Ill.	

NOT VOTING—38

Ashley	Dulski	Minshall, Ohio
Baker	Flynt	Murphy, N.Y.
Boland	Grasso	Passman
Brasco	Hanna	Peyser
Carey, N.Y.	Hansen, Idaho	Powell, Ohio
Clawson, Del	Hansen, Wash.	Riegle
Clay	Ichord	Rooney, N.Y.
Cotter	Jones, Tenn.	Sikes
Danielson	Kazen	Symington
Davis, Ga.	Kluczynski	Teague
de la Garza	Landrum	Thompson, N.J.
Diggs	McEwen	Wylie
Dorn	Mathias, Calif.	

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. Are there further amendments to title I?

AMENDMENT OFFERED BY MR. HOSMER TO THE COMMITTEE AMENDMENT IN THE NATURE OF A SUBSTITUTE

Mr. HOSMER. Mr. Chairman, under the rules I call up my amendment No. 14 and this is amendment No. 51 as printed in the RECORD. I offer an amendment to the committee amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. HOSMER to the committee amendment in the nature of a substitute: Page 144, line 21, strike out "against the degradation of".

Mr. HOSMER. Mr. Chairman, for the Members who have a copy of the bill with them, this amendment applies to page 144. We are all the way down to there.

This is again the purposes clause. Section 102, subsection (e) now reads that one of the purposes of the act is to:

assure that surface coal mining operations are so conducted as to protect against the degradation of the environment.

My notion is to strike out the words "against the degradation of" so that this subsection (e) would then read:

assure that surface coal mining operations are so conducted as to protect the environment;

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. HOSMER. I yield to the gentleman from Arizona.

Mr. UDALL. Mr. Chairman, the language in the bill now is the product of an extensive compromise between my co-chairman, the gentlewoman from Hawaii (Mrs. MINK) and that great scholar, the gentleman from Arizona (Mr. STEIGER). We are willing to accept the amendment, but it pains the gentlewoman from Hawaii (Mrs. MINK) so much to accept it that she is unable to stand up and accept it herself, but we are willing to accept it if the gentleman will yield back his time and not ask for a record vote.

Mr. HOSMER. I am delighted to make a deal with the gentleman. I will not yield back my time but I will not ask for a record vote, either.

I want to say, gentlemen, and why I pointed attention to the bill, as I said several times during the colloquies on the floor, that if anybody really knows what is in this H.R. 11500 they would flee from it. I hope Members can find their copies when they leave here at 5 o'clock, take them back to the districts and take a look at them over the weekend, because we will have an opportunity to take some more action on this bill next week, and perhaps even the week after.

When the Members find out what is in it, I think they will find, like the gentleman from Arizona, that this suggestion of mine is a reasonable one, because the word "degradation" as found in here is simply a word that is reasonably undefinable and it lends ambiguity to the bill. They will also find that many more changes are desirable.

Now, unfortunately, this ambiguity on page 144 is repeated—not this particular ambiguity, but other ambiguities are repeated throughout this bill. The bill is redundant. The bill puts in some environ-

mental precautions at one point and then a few pages later somebody thinks, well, gee, what we did back there a couple or three pages was great and let us do it here, and so they do it again a few pages later. Then some smiling face comes into the committee room that has been voted by proxy for 3 or 4 days, and on his own, de novo, he comes up with the same thought. He offers an amendment. He is a good guy. It is approved. He thinks that same thing would be great again, and so he turns up several pages later in the bill, with somewhat of the same idea, expressed in somewhat the same ambiguous way, and meaning something a little bit different.

Now, that is one of the many traps for the unwary that are in this bill because, my friends, for a bill that is written that loose way it presents manifold opportunities for anybody to go to court on regulations, anybody to go to court on any environmental statement, for anybody to go to court on the way the regulations are written or to be interpreted. We can see that before we could ever put into operation the machinery that is in this bill, we will have gone through the courts and we will have gone through hearings for an endless amount of time. For that reason we will not be issuing permits to establish new mines or renewing permits for old mines. We will not be digging coal. We will be freezing in the dark and that is why this bill has to be amended. That is why I posted my 175 amendments.

The CHAIRMAN. The question is on the amendment, offered by the gentleman from California (Mr. HOSMER), to the committee amendment in the nature of a substitute.

The question was taken; and on a division (demanded by Mr. HOSMER) there were—ayes 66, noes 47.

So the amendment to the committee amendment in the nature or a substitute was agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

TITLE II—CONTROL OF ENVIRONMENTAL IMPACTS OF SURFACE COAL MINING

INITIAL REGULATORY PROCEDURE

SEC. 201. (a) No person shall open or develop any new or previously mined or abandoned site for surface coal mining operations on lands on which such operations are regulated by the State unless such person has obtained a permit from the State regulatory authority.

(b) On and after the date of enactment of this Act, all new surface coal mining operations shall comply, and all new permits issued for surface coal mining operations shall contain terms requiring compliance with the following environmental protection standards:

(1) With respect to coal surface mining on steep slopes, no spoil, debris, soil, waste materials, or abandoned or disabled mine equipment may be placed on the natural or other downslope below the bench or cut created to expose the coal seam except that spoil from the initial block or short linear cut necessary to obtain access to the coal seam may be placed on a limited or specified area of the downslope: *Provided*, That the spoil is shaped and graded in such a way as to prevent slides, erosion, and water pollution, and is revegetated in accordance with subsection (3) below: *Provided further however*, That (A) the regulatory authority may permit limited or temporary placement of spoil on a specified area of the downslope on steep slopes in conjunction with mining operations which will create a plateau with no highwalls remaining, if such placement is consistent with the approved postmining land use of the mine site and (B) the provisions of this subsection (b)(1) shall not apply to those situations in which an operator is mining on flat or gently rolling terrain, on which an occasional steep slope is encountered through which the mining operation is to proceed, leaving a plain or predominantly flat area.

(2)(A) With respect to all surface coal mining operations backfill, compact (where advisable to insure stability or to prevent leaching of toxic materials), and grade in order to restore the approximate original contour of the land with all highwalls, spoil piles, and depressions eliminated (unless depressions are needed in order to retain moisture in order to assist revegetation or as otherwise authorized under paragraph (2)(D) of this subsection).

(B) *Provided*, That in surface coal mining which is carried out at the same location over a substantial period of time, where the operation follows the coal deposit vertically and the thickness of the coal deposit relative to the volume of the overburden is large and where the operator demonstrates that the overburden, giving due consideration to volumetric expansion, at a particular point on the mining site is insufficient or unavailable from other portions of the site to restore the approximate original contour, the operator, at a minimum, shall backfill, grade, and compact (where advisable) in order to cover all acid-forming and other toxic materials, to achieve at least the angle of repose and to facilitate an ecologically sound land use compatible with the surrounding region but not necessarily meeting the revegetation requirements of subsection (3): *And Provided further*, That in surface coal mining other than as described in the first proviso of this subparagraph (B), and other than operations covered by subsection (b)(1) of this section, where the volume of overburden is large relative to the thickness of the coal deposit and where the operator demonstrates that due to volumetric expansion, the amount of overburden and other spoil and waste materials removed in the course of the mining operation is more than sufficient to restore the approximate original contour, the operator shall after restoring the approximate original contour, backfill, grade and compact (where advisable) the excess overburden and other spoil and waste materials to attain the lowest practicable grade but not more than the angle of repose, and to cover all acid-forming and other toxic materials, in order to achieve an ecologically sound land use compatible with the surrounding regions and that such overburden or spoil shall be shaped and graded in such a way as to prevent slides, erosion and water pollution and is revegetated in accordance with subsection (b)(3) of this section;

(3) With respect to all surface coal mining operations, establish on regraded and all other lands affected, a diverse vegetative cover capable of self-regeneration and plant succession at least equal in extent of cover to the natural vegetation: *Provided*, That introduced species may be used in the revegetation process where desirable and necessary to achieve the approved post-mining land use plan.

(4) With respect to all surface coal mining operations, remove the topsoil in a separate layer, segregate it in a separate pile from the other spoil, replace it on a backfill area, and when the topsoil is not replaced in a time short enough to avoid deterioration of the topsoil, maintain a successful cover by quick growing plant or by other means so that the topsoil is preserved from wind and water erosion, remains free of any acid or toxic material from other strata or drainage, and is in a usable condition for sustaining vegetation when replaced during reclamation, except if topsoil is not capable of sustaining vegetation, or if other strata can be shown to be more suitable for vegetation requirements, then the operator shall remove, segregate, preserve, and replace in a like manner such other strata which is best able to support vegetation: *Provided*, That if the appropriate State agricultural agency approves, it shall not be necessary to separate the topsoil and other strata of subsoil if it can be shown that a mix of such topsoil and subsoil and soil nutrient would be equally suitable for vegetation requirements and meet the requirements of sound reclamation practices. In such instances, the operator shall remove, segregate, and replace the mix of topsoil and such other strata in a manner prescribed by the appropriate State agricultural agency.

(5)(A) With respect to surface disposal of coal mine wastes, coal processing wastes or other wastes in areas other than the mine workings or excavations, stabilize all waste piles in designated areas through construction and compacted layers with incombustible and impervious materials assuring the leachate will not pollute surface or ground waters and the final contour of the waste pile will be compatible with natural surroundings and that the site can and will be stabilized and revegetated according to provisions of this Act; and

(B) With respect to the use of impoundments for the disposal of coal mine wastes, or coal processing wastes or other liquid or solid wastes, incorporate the latest engineering practices for the design and construction of water retention facilities and construct such facilities to insure that the construction will be so designed to achieve necessary stability with an adequate margin of safety to protect the health and safety of the public and which, at a minimum, is compatible with that of structures constructed under Public Law 83-566 (16 U.S.C. 1006); that leachate will not pollute surface or ground water, and that no mine waste such as coal fines and slimes determined as unsuitable for construction constituents by sound engineering methods and design practices are used in the construction of water impoundments, water retention facilities, dams or settling ponds.

(6) Minimize the disturbances to the hydrologic balance at the minesite and associated offsite areas and to the quantity and quality of water entering surface and ground water systems both during and after surface mining and reclamation giving particular attention throughout the mining operation to the aquifer recharge capacity of the mining area and to the protection of alluvial valley floors and stream channels.

(7) Upon petition by the permittee or other applicant for a permit and after public notice and opportunity for hearing, the regulatory authority may grant one or more exceptions to the environmental protection standards set forth in the first clause before the first proviso in paragraph (1) and the provisions of paragraph (2) of this subsection, if the regulatory authority issues a written finding that one or more such standards cannot reasonably be met and that the permittee has shown by proper documentation that each specific item of equipment which is named in the petition as being essential to the performance of the standard in question, cannot be delivered by the manufacturer or supplier prior to the date on which the operation is required under this

Act to be in compliance with said standards, and no other equipment owned by or readily available to the permittee or applicant is suitable for the performance of such standards.

The basis for any such exception shall be reviewed at least once every three months by the regulatory authority. If pursuant to such review, the regulatory authority finds that the permittee does not show, by proper current documentation, that the specific items of equipment named in the petition still cannot be delivered to the operator by the manufacturer then the exception shall be canceled.

At any time if the permittee is found to be in noncompliance with any other provision of this Act or if a State program pursuant to section 203 of this Act or a Federal program pursuant to section 204 of this Act is implemented, then any such exception shall cease to be effective immediately.

(c) On and after one hundred and twenty days from the date of enactment of this Act, all surface coal mining operations existing at the date of enactment of this this Act shall comply with the standard in subsection (b) above, with respect to lands from which the overburden has not been removed. During the one-hundred-and-twenty-day period commencing on the date of enactment of this Act, the regulatory authority shall review and amend permits in order to incorporate in them the standards of subsection (b) above.

(d) Upon petition by the applicant or permittee and after public notice and opportunity for a hearing, the regulatory authority may grant exceptions to provisions in the first clause before the first proviso in subsection (b)(1) and to the provisions of subsection (b)(2) of this section if the regulatory authority issues a written finding that one or more variations from these provisions will enable the affected land to have an equal or higher postmining economic or public use and such use will be achieved within a reasonable time, is consistent with surrounding land uses and with local, State, and Federal la-7 and can be obtained only if one or more exceptions to the above provisions are granted.

(e) Not later than eighteen months from the date of the enactment of this Act, all operators of surface coal mines in expectation of operating such mines after the date of approval of a State program, pursuant to section 203 of this Act, shall file an application for a permit with the regulatory authority, such application to cover those lands to be mined after the date of approval of the State program. The regulatory authority shall process these applications and grant or deny a permit within six months from the date of approval of the State program, but in no case later than thirty-six months from the date of enactment of this Act. The application filed pursuant to this provision and the permit thereby obtained shall be in full compliance with this Act.

(f) No later than one hundred and eighty days from the date of enactment of this Act, and after issuing regulations in accordance with the procedures of section 202, the Secretary shall implement a Federal enforcement program which shall remain in effect in each State in which there is surface coal mining until the State program has been accepted pursuant to section 203 of this Act or until a Federal program has been implemented pursuant to section 204 of this Act. The enforcement program shall:

(1) include inspections of surface coal mine sites which shall be made on a random basis (but at least one inspection for every site every three months), without advance notice to the mine operator and for the purpose of ascertaining compliance with the standards of subsection (b) above. The Secretary shall order any necessary enforcement action to be implemented pursuant to the Federal enforcement provisions of this title to correct violations identified at the inspections;

(2) provide that upon receipt of inspection reports indicating that any coal surface mining operation has been found in violation of subsection (b) above, during not less than two consecutive State inspections or upon receipt by the Secretary of information which would give rise to reasonable belief that such standards are being violated by any surface coal mining operation, the Secretary shall order the immediate inspection of such operation by Federal inspectors and the necessary enforcement actions, if any, to be implemented pursuant to the Federal enforcement provisions of this title. When the Federal inspection results from information provided to the Secretary by any person, the Secretary shall notify such person when the Federal inspection is proposed to be carried out and such person shall be allowed to accompany the inspector during the inspection;

(3) for purposes of this section, the term "Federal inspector" means personnel of the Office of Surface Mining Reclamation and Enforcement and such additional personnel of the United States Geological Survey, Bureau of Land Management, or of the Mining Enforcement and Safety Administration so designated by the Secretary, or such other personnel of the Forest Service, Soil Conservation Service, or the Agricultural Stabilization and Conservation Service as arranged by appropriate agreement with the Secretary on a reimbursable or other basis;

(4) provide that the State regulatory agency file with the Secretary and with a designated Federal office centrally located in the county or area in which the inspected surface coal mine is located copies of inspection reports made;

(5) provide that moneys authorized by section 701(a) shall be available to the Secretary prior to the approval of a State program pursuant to section 203 of this Act to reimburse the States for conducting those inspections in which the standards in subsection (b) above, are enforced and for the administration of this section.

(g) A coal surface mine operator operating pursuant to a valid permit and awaiting administrative action on his application for a permit from the appropriate regulatory authority may during the period prior to approval or disapproval of a State program pursuant to section 203 of this Act and for six months thereafter continue to operate his surface mine beyond the date of expiration of his permit subject to the terms and conditions of his permit or application in the event the appropriate regulatory authority has not acted on his application by the time his permit expires.

(h) During the period prior to approval of a Federal or Indian program pursuant to this Act, including judicial review of the approval of a Federal or Indian program, existing coal surface mining operations on Federal land and Indian land may commence or continue mining operations: *Provided*, That such operations shall be subject to and bound by the provisions of section 201(b) hereof. The enforcement procedures of section 220 shall apply to such coal surface mining operations and the Secretary shall order the random inspections of such operations in the same manner provided by section 201 (f) hereof. For purposes of this section existing coal surface mining operations means those in existence on the date of enactment of this Act and those for which substantial legal and financial commitments were in existence prior to September 1, 1973.

PERMANENT ENVIRONMENTAL PROTECTION STANDARDS

SEC. 202. Not later than the end of the one-hundred-and-eighty-day period immediately following the date of enactment of this Act, the Secretary shall promulgate and publish in the Federal Register regulations covering a permanent regulatory procedure for surface coal mining and reclamation operations setting mining and reclamation performance standards based on and incorporating the provisions of title II and establishing procedures and requirements for preparation, submission, and approval of State programs and development and implementation of Federal programs under this title. Such regulations shall not be promulgated and published by the Secretary until he has—

(A) published proposed regulations in the Federal Register and afforded interested persons and State and local governments a period of not less than forty-five days after such publication to submit written comments thereon;

(B) obtained the written concurrence of the Administrator of the Environmental Protection Agency with respect to those regulations promulgated under this section which relate to air or water quality standards promulgated under the authority of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1151–1175), and the Clean Air Act, as amended (42 U.S.C. 1857); and

(C) held at least one public hearing on the proposed regulations.

The date, time, and place of any hearing held on the proposed regulations shall be set out in the publication of the proposed regulations. The Secretary shall consider all comments and relevant data presented at such hearing before final promulgation and publication of the regulations.

STATE PROGRAMS

SEC. 203. (a) Each State in which there is or may be conducted surface coal mining operations, and which wishes to assume State regulatory authority under this Act, shall submit to the Secretary, by the end of the twenty-four-month period beginning on the date of enactment of this Act, a State program which demonstrates that such State has the capability of carrying out the provisions of this Act and meeting its purposes through—

(1) a State law which provides for the regulation of surface mining and reclamation operations in accordance with the requirements of this Act and the regulations issued by the Secretary pursuant to this Act;

(2) a State law which provides sanctions for violations of State laws, regulations, or conditions of permits concerning surface mining and reclamation operations, which sanctions shall meet the minimum requirements of this Act, including civil and criminal actions, forfeiture of bonds, suspension, revocation, and withholding of permits, and the issuance of cease and desist orders by the State regulatory authority or its inspectors;

(3) a State regulatory authority with sufficient administrative and technical personnel, and sufficient funding to enable the State to regulate surface coal mining and reclamation operations in accordance with the requirements of this Act;

(4) a State law which provides for the effective implementation, maintenance, and enforcement of a permit system, meeting the requirements of this title for the regulation of surface mining and reclamation operations for coal on lands within the State;

(5) establishment of a process for the designation of lands unsuitable for surface coal mining in compliance with section 206; and

(6) establishment, for the purpose of avoiding duplication, of a process for co-

ordinating the review and issuance of permits for surface mining and reclamation operations with any other Federal or State permit process applicable to the proposed operations.

(b) The Secretary shall not approve any State program submitted under this section until he has—

(1) solicited and publicly disclosed the views of the Administrator of the Environmental Protection Agency, the Secretary of Agriculture, and the heads of other Federal agencies concerned with or having special expertise pertinent to the proposed State program;

(2) obtained the written concurrence of the Administrator of the Environmental Protection Agency and respect to those aspects of a State program which relate to air or water quality standards promulgated under the authority of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1151–1175), and the Clean Air Act, as amended (42 U.S.C. 1857);

(3) held at least one public hearing on the State program within the State; and

(4) found that the State has the legal authority and qualified personnel necessary for the enforcement of the environmental protection standards.

The Secretary shall approve or disapprove a State program, in whole or in part, within six full calendar months after the date such State program was submitted to him.

(c) If the Secretary disapproves any proposed State program in whole or in part, he shall notify the State in writing of his decision and set forth in detail the reasons therefor. The State shall have sixty days in which to resubmit a revised State program, or portion thereof: *Provided, however,* That no State program shall be resubmitted pursuant to this subsection after thirty months from the date of enactment of this Act: *Provided further,* That the Secretary shall approve or disapprove the resubmitted State program or portion thereof within sixty days from the date of resubmission.

FEDERAL PROGRAM

SEC. 204. (a) The Secretary shall prepare and implement a Federal program for the regulation of surface coal mining in any State which fails to—

(1) submit and obtain approval of a State program as required under section 203; or

(2) adequately implement enforce, or maintain a State program once approved pursuant to section 204.

(b) In the event that a State has a regulatory program for surface coal mining, and is not enforcing any part of such program, the Secretary may provide for the Federal enforcement, under the provisions of section 220, of that part of the State program not being enforced by such State.

(c) If State compliance with section 203 requires an act of the State legislature, the Secretary may extend the period for submission of a State program up to an additional six months in those States which have a constitutional convention in 1974 and whose legislatures do not meet in regular session until 1975.

RESUBMITTAL OF STATE PROGRAM

SEC. 205. A State which has failed to obtain the approval of a State program prior to implementation of a Federal program may submit a State program at any time after such implementation. Upon the submission of such a program, the Secretary shall follow the procedures set forth in section 203 (b) and shall approve or disapprove the State program within six months after its submittal. Approval of a State program shall be based on the determination that the State has the capability of carrying out the provisions of this Act and meeting its purposes through the criteria set forth in section 203 (a) (1) through (6). Until a State program is approved as provided under this section, the Federal program shall remain in effect and all actions taken by the Secretary pursuant to such Federal program, including the terms and conditions of any permit issued thereunder, shall remain in effect.

DESIGNATING AREAS UNSUITABLE FOR SURFACE COAL MINING

SEC. 206. (a) (1) To be eligible to assume primary regulatory authority pursuant to section 203, each State shall establish a planning process enabling objective decisions based upon competent and scientifically sound data and information as to which, if any, land areas of a State are unsuitable for all or certain types of surface coal mining operations pursuant to the standards set forth in paragraphs (2) and (3) of this section but such designation shall not prevent the mineral exploration pursuant to the Act of any area so designated.

(2) An area shall be designated unsuitable for all or certain types of surface coal mining operations if reclamation pursuant to the requirements of this Act is not demonstrated to be physically or economically feasible.

(3) An area may be designated unsuitable for all or certain types of surface coal mining operations if such operations will—

(A) be incompatible with Federal, State, or local plans to achieve essential governmental objectives; or

(B) affect fragile or historic lands in which such operations could result in significant damage to important historic, cultural, scientific, and esthetic values and natural systems; or

(C) affect renewable resource lands in which such operations could result in a substantial loss or reduction of long-range productivity of water supply or of food or fiber products, and such lands to include aquifers and aquifer recharge areas; or

(D) affect natural hazard lands in which such operations could substantially endanger life and property, such lands to include areas subject to frequent flooding and areas of unstable geology.

(4) To comply with this section, a State must demonstrate it has developed or is developing a process which includes—

(A) a State agency responsible for mining lands review;

(B) a data base and an inventory system which will permit proper evaluation of the capacity of different land areas of the State to support and permit reclamation of surface coal mining operations;

(C) a method or methods for implementing land use planning decisions concerning surface coal mining operations; and

(D) proper notice, opportunities for public participation, including a public hearing prior to making any designation or redesignation, pursuant to this section, and measures to protect the legal interests of affected individuals in all aspects of the State planning process.

(5) Determinations of the unsuitability of land of surface coal mining, as provided for in this section, shall be integrated as closely as possible with present and future land use planning and regulation processes at the Federal, State, and local levels.

(6) In no event is land to be designated unsuitable for surface coal mining operations on which surface coal mining operations are being conducted on the date of enactment of this Act or under a permit issued pursuant to this Act, or where substantial and financial commitments in such operations are in existence prior to September 1, 1973.

(b) The Secretary shall conduct a review of the Federal lands and to determine, pursuant to the standards set forth in paragraphs (2) and (3) of subsection (a) of this section, whether there are areas on Federal lands which are unsuitable for all or certain types of surface coal mining operations. When the Secretary determines an area on Federal lands to be unsuitable for all or certain types of surface coal mining operations, he shall withdraw such area or condition any mineral leasing or mineral entries in a manner so as to limit surface coal mining operations on such area. Where a Federal program has been implemented in a State pursuant to section 204, the Secretary shall implement a process for designation of areas unsuitable for surface coal mining for non-Federal lands within such State and such process shall incorporate the standards and procedures of this section.

(c) Any person having an interest which is or may be adversely affected shall have the right to petition the regulatory authority to have an area designated as unsuitable for surface coal mining operations, or to have such a designation terminated. Such a petition shall contain allegations of facts with supporting evidence which would tend to establish the allegations. As soon as practicable after receipt of the petition the regulatory authority shall hold a public hearing in the locality of the affected area, after appropriate notice and publication of the date, time, and location of such hearing. Within sixty days after such hearing, the regulatory authority shall issue and furnish to the petitioner and any other party to the hearing, a written decision regarding the petition, and the reasons therefor. In the event that all the petitioners stipulate agreement prior to the requested hearing, and withdraw their request, such hearing need not be held.

(d) Prior to designating any land areas as unsuitable for surface coal mining operations, the regulatory authority shall prepare a detailed statement on (i) the potential coal resources of the area, (ii) the demand for coal resources, and (iii) the impact of such designation on the environment, the economy, and the supply of coal.

EFFECT ON STATE LAW

SEC. 207. Where any provision of any State law or regulation in effect upon the date of enactment of this Act or which may become effective thereafter, provides more stringent environmental controls and regulations of surface mining and reclamation operations than do the provisions of this Act or any regulation issued pursuant thereto, such provision of State law or regulation shall not be construed to be inconsistent with this Act.

PERMITS

SEC. 208. (a) After six months from the date on which a State program is approved by the Secretary, pursuant to section 203 of this Act, or the Secretary has promulgated a Federal program for a State not having a State program, pursuant to section 203, no person shall engage in surface coal mining operations unless such person has obtained a permit in full compliance with this Act from the appropriate regulatory authority.

(b) All permits issued pursuant to the requirements of this Act shall be issued for a term not to exceed five years and shall be nontransferable: *Provided,* That a successor in interest to a permittee who applies for a new permit within thirty days of succeeding to such interest and who is able to obtain the bond coverage of the original permittee may continue surface coal mining and reclamation operations according to the approved mining and reclamation plan of the original permittee until such successor's application is granted or denied.

PERMIT APPROVAL OR DENIAL

SEC. 209. (a) Upon the basis of a complete mining application and reclamation plan or a revision or renewal thereof, as required by this Act and pursuant to an approved State program or Federal program under the provisions of this Act, including public notification and an opportunity for a public hearing as required by section 214, the regulatory authority shall grant or deny the ap-

plication for a permit and notify the applicant in writing. Within ten days after the granting of a permit, the regulatory authority shall notify the State and the local official who has the duty of collecting real estate taxes in the local political subdivision in which the area of land to be affected is located that a permit has been issued and shall describe the location of the land.

(b) No permit, revision or renewal application shall be approved unless the regulatory authority finds in writing on the basis of the information set forth in the application or from information otherwise available which will be documented in the approval, and made available to the applicant, that (1) the requirements of this Act, and the rules and regulations adopted thereunder will be met, (2) there is objective assurance that the reclamation of the area of affected land can be achieved, and (3) the proposed post-mining land use is (A) compatible with surrounding land uses, exclusive of surface mining, (B) practical with respect to need or the surrounding land uses, and (C) reasonable with respect to the likelihood of availability of both public and private resources and support which may be needed to achieve such objectives.

(c) Prior to the issuance of a permit, the regulatory authority shall review and alter a proposed mining and reclamation plan with respect to the methods, sequence, timing of specific operations in the plan, or the deletion of specific operations or areas from part or all of the plan in order to assure that the environmental protection objectives of this Act are met.

(d) No permit shall be issued by the regulatory authority unless the permit application affirmatively demonstrates that, and the regulatory authority makes specific written findings to the effect that—

(1) there is probable cause to believe that the proposed surface coal mining operation will result in reclamation of the land area affected pursuant to the performance standards set forth in section 211 of this Act and regulations promulgated pursuant to this Act;

(2) the post-mining land use as proposed in the reclamation plan is practical, is likely to be achieved, and is not inconsistent with surrounding land uses;

(3) the area proposed to be mined is not included within an area designated unsuitable for surface coal mining pursuant to section 206 of this Act or is not within an area under study for such designation (unless in such an area under study, the operator making the permit application demonstrates that, prior to September 1, 1973, he has made substantial legal and financial commitments in relation to the operation for which he is applying for a permit);

(4) the land to be affected does not lie within three hundred feet from any occupied dwelling, unless waived by the owner thereof, nor within three hundred feet of any public building, school, church, community, or institutional building, public park, or cemetery; nor shall the land to be affected lie within one hundred feet of the outside right-of-way line of any public road, except that the regulatory authority may permit such roads to be relocated, if the interests of the public and the landowners affected thereby will be protected;

(5) the impacts of the mining operations on the hydrologic balance on and off the permit area are minimized; the specific provisions of sections 211(b)(14) are met; the assessment of the probable cumulative impact of all anticipated mining in the area on the hydrologic balance specified in section 210(b)(14) has been made and the proposed operation thereof has been designed to prevent irreparable offsite impacts to hydrologic balance;

(6) the operator is not presently ineligible to obtain a permit to conduct any coal mining operation under the law of any Federal or State program authorized by this Act;

(7) the operator has not had a permit revoked by any regulatory authority under this Act within five years preceding the filing of the application;

(8) mining operations would not adversely affect nearby lands and waters to which the public enjoys use and access, or the mining of any area of land within one mile of publicly owned lands or parks or places located in the National Register of Historic Sites unless screening and other measures approved by the regulatory authority are used and the permit so provides, or if the mining of the area will not adversely affect or reduce the usage of the publicly owned land;

(9) the mining operations are not located within any area of the National Park System, the national forests, the National Wildlife Refuge System, the National Wilderness Preservation System, or the Wild and Scenic Rivers System, including study rivers designated under section 5(a) of the Wild and Scenic Rivers Act: *Provided, however,* That this paragraph shall not prohibit surface mining operations in existence on the date of enactment of this Act, or those for which substantial legal and financial commitments were in existence prior to September 1, 1973; but, in no event shall such surface mining operations be exempt from the requirements of this Act;

(10) the permit application does not include areas of land affected that are noncontiguous;

(11) the operator has not forfeited a bond or partial bond under this Act within the past five years; and

(12) the application on its face is complete, accurate, and contains no false information.

(e) The applicant shall file with his permit application a schedule listing any and all violations of this Act and any law, rule, or regulation of the United States or of any department or agency in the United States pertaining to air, or water environmental protection incurred by the applicant in connection with any coal surface mining operation during the one-year period prior to the date of application. The schedule shall also indicate the final resolution of any such notice of violation. Where the schedule or other information available to the regulatory authority indicates that any coal surface mining operation owned or controlled by the applicant is currently in violation of this Act or such other laws referred to in this subsection, the permit shall not be issued until the applicant submits proof that such violation has been corrected or is in the process of being corrected to the satisfaction of the regulatory authority, department, or agency which has jurisdiction over such violation.

APPLICATION REQUIREMENTS

SEC. 210. (a) Each application for a mining and reclamation permit pursuant to an approved State program or a Federal program under the provisions of this Act shall be accompanied by a fee as determined by the regulatory authority. Such fee shall be based as nearly as possible upon the actual or anticipated cost of reviewing, administering, and enforcing such permit issued pursuant to a State or Federal program, and shall be in addition to the fee required for the Abandoned Mine Reclamation Fund.

(b) The permit application shall be submitted in a manner satisfactory to the regulatory authority and shall contain, among other things—

(1) the names and address of the permit applicant (if the applicant is a subsidiary corporation, the name and address of the parent corporation must be included); every legal owner of the property (surface and mineral) to be mined; the holders of any leasehold or other equitable interest in the property of record; any purchase of the property under a real estate contract; the operator if he is a person different from the applicant; and, if any of these are business entities other than a single proprietor, the names, addresses of the principals, officers, and resident agent;

(2) the names and addresses of every officer, partner, director, or person performing a function similar to a director, of the applicant, together with the name and address of any person owning, of record or beneficially, either alone or with associates, 10 per centum or more of any class of stock of the applicant and a list of all names under which the applicant, partner, or principal shareholder previously operated a surface mining operation within the United States or its territories and possessions;

(3) a description of the type and method of coal mining operation that exists or is proposed, the engineering techniques proposed or used, and the equipment used or proposed to be used;

(4) the anticipated or actual starting and termination dates of each phase of the mining operation and number of acres of land to be affected;

(5) evidence of compliance with section 709;

(6) the names and addresses of the owners of all surface and subsurface areas abutting on the permit area;

(7) a statement of any current or previous surface coal mining permits in the United States held by the applicant and the permit identification;

(8) a statement of whether the applicant, any subsidiary, affiliate, or persons controlled by or under common control with the applicant, has ever held a Federal or State mining permit which has been suspended or revoked or has ever had a mining bond or similar security deposited in lieu of bond forfeited and a brief explanation of the facts involved in each case;

(9) an accurate map or plan to an appropriate scale clearly showing the land to be affected and contour lines of the surface at sufficient intervals of elevation to accurately depict the topography of the terrain, prepared by or under the direction of and certified by a registered professional engineer, or registered land surveyor and a professional geologist for the requirements relating to subsurface information. Such a map or plan shall among other things specified by the regulatory authority show all the boundaries of the land to be affected, its surrounding drainage area, the location and name, where known, of all roads, railroads, rights-of-way, utility lines, oil wells, gas wells, water wells, lakes, creeks, streams, rivers, springs, and other surface water courses, the name and boundary lines of the present owners of all surface areas abutting on the permit area and the location of all buildings on such abutting surface areas and within one thousand feet of the permit area; and the purpose for which each building is used;

(10) typical cross-section maps or plans of the land to be affected including the actual area to be mined showing pertinent elevation and locations of test borings or core samplings required under subparagraph (16) including the nature and thickness of any coal or rider seam above the coal seam to be mined, the nature of the stratum immediately beneath the coal seam to be mined, all mineral crop lines, strike and dip of the coal to be mined within the area of land to be affected, existing or previous surface mining limits, the location and extent of known working of any underground mines, including mine openings to the surface, the location of acquifers; underground waters, and the estimated elevation of the water table, the location of spoil, waste or refuse areas, the topsoil preservation areas, the location of all impoundments for waste or erosion control, any settling or water treatment facili-

ties; constructed or natural drainways and the location of any discharges to any surface body of water on the area of land to be affected or adjacent thereto; and profiles at approximate cross-sections of the anticipated final surface configuration that will be achieved pursuant to the operator's approved reclamation plan. The information pertaining to the coal seam required by this paragraph shall be kept confidential and not made a matter of public record, except that if such information becomes relevant to the parties to a hearing on the grant or denial of a permit or the forfeiture or release of part or all of the bond, such information may be disclosed to such interested parties under appropriate protective provisions.

(11) a copy of the applicant's advertisement to be published pursuant to section 214(a), which includes the ownership, a description of the exact location and boundaries of the proposed site sufficient so that the proposed operation is readily locatable by local residents, and the location of where the application is available for public inspection;

(12) the name of the watershed and location of all known surface and underground waterways into which surface waters may or will be discharged;

(13) a determination of the hydrologic consequences of the mining and reclamation operations, both on and off the mine site, with respect to the hydrologic regime, quantity and quality of water in surface and ground water systems including the dissolved and suspended solids under seasonal flow conditions and the collection of sufficient data for the mine site and surrounding area so that an assessment can be made of the probable cumulative impacts of all anticipated mining in the area upon the hydrology of the area and particularly upon water availability;

(14) a complete and verifiable list of all deeds, leases, options, or other instruments granting to the applicant or his agents rights to or in the land or minerals to be affected by the proposed permit;

(15) when requested by the regulatory authority, a statement of all lands, interests in lands, or options on such lands held by the applicant or pending bids on interests in lands by the applicant, which lands are contiguous to the land to be affected, and any information required by this subsection which is not on public file pursuant to appropriate laws shall be held in confidence by the regulatory authority;

(16) a statement of the results of test borings or core samplings from the land to be affected, including where appropriate, the surface elevation and logs of the drill holes so that the strike and dip of the coal seams may be determined, the nature and depth of the various strata of overburden, the location of subsurface water, if encountered, and its quality, the thickness of the coal seam found, an analysis of the chemical properties of such coal; the sulfur content of any coal seam and a chemical analysis of potentially acid or toxic forming sections of the overburden, and a chemical analysis of the stratum lying immediately underneath the coal to be mined; and

(17) such other information as the regulatory authority may require.

The collection and analyses of all information required under paragraph (16) of this subsection shall be conducted by a laboratory which is approved by the regulatory authority. The regulatory authority shall establish rules to preserve the integrity of the sampling. Information from test borings and core samplings required by this paragraph shall be made available to interested parties and that which pertains only to the quantitative and qualitative analysis of the coal seams (except the information regarding such mineral or elemental content which is potentially toxic in the environment), shall be kept confidential and not made a matter of public record. If such coal seam information becomes relevant to the parties to a hearing on the grant or denial of a permit or the forfeiture or release of part or all of a bond, such information shall be disclosed to such interested parties under protective provisions defined by the regulatory authority.

(c) The mining and reclamation plan which each applicant for a permit shall be required to submit with a permit application, consistent with the performance criteria provided for in this Act, shall include, at least—

(1) the identification of the entire area to be mined and affected over the estimated life of the mining operation and the size, sequence, and timing of the subareas for which it is anticipated that individual permits for mining will be sought;

(2) a statement describing the full range of uses to which the land was put and the predominant uses of the area immediately surrounding the area of land to be affected prior to the commencement of any mining, and a description of the use or uses proposed to be made of the area of land to be affected following reclamation;

(3) a detailed description of the manner in which mining operations will be conducted and of the actions taken or planned to prevent adverse environmental effects during the life of the mining and reclamation operation;

(4) a detailed description of the measures to be taken during the mining and reclamation process to assure the protection of the quantity and quality of surface and ground water systems, both onsite and offsite from adverse effects of the mining and reclamation process, and the rights of present users to such water;

(5) a detailed description of the reclamation activities that will be taken to return the mined area to a condition consistent with the applicant's proposed postmining land use and in accordance with provisions of this Act (including, but not limited to preventing polluting discharges, seepages, mine and refuse bank fires, and other conditions that present an imminent hazard to the health or safety of the public on the permitted site that resulted from previous mining operations);

(6) a detailed description of how the proposed postmining land use is to be achieved and the necessary public or private support activities which may be needed to achieve the proposed land use;

(7) a detailed time schedule, including interim completion dates, for key stages of the surface coal mining and reclamation plan;

(8) a description of the actions planned to insure compliance with the environmental performance standards set forth in this Act and supplemented by regulation by the regulatory authority; and

(9) such other requirements as the regulatory authority shall prescribe by regulation.

(d) Each applicant for a surface mining and reclamation permit shall file a copy of his application for public inspection with the Recorder at the courthouse of the county or an appropriate official approved by the regulatory authority where the mining is proposed to occur, except for that information pertaining to the coal seam itself.

(e) Each applicant for a permit shall be required to submit to the regulatory authority as part of the permit application a certificate issued by an insurance company authorized to do business in the United States certifying that the applicant has a public liability insurance policy in force for the mining and reclamation operations for which such permit is sought, or evidence that the applicant has satisfied other State or Federal self-insurance requirements. Such policy shall cover the mined area and provide for both on- and off-site personal injury and property damage protection as a result of mining and reclamation operations and entitled to compensation under the applicable provisions of Federal or State law but in any event shall not be less than $100,000, or for such higher amounts as the regulatory authority deems necessary in light of potential risk and magnitude of possible off-site damages. Such policy shall be for the term of the permit and any renewal, including the length of any and all reclamation operations required by this Act.

(f)(1) Any valid permit issued pursuant to this Act shall carry with it the right of successive renewal upon expiration with respect to areas within the boundaries of the existing permit, on application of the holder of the permit and the finding in writing by the regulatory authority that—

(A) the terms and conditions of the existing permit are being satisfactorily met;

(B) the present surface mining and reclamation operation is in full compliance with the environmental protection standards of this Act and the approved State plan pursuant to this Act;

(C) the renewal requested does not jeopardize the operator's continuing responsibility on existing permit areas;

(D) the operator has provided evidence that the performance bond in effect for said operation will continue in full force and effect for any renewal requested in such application as well as any additional bond the regulatory authority might require pursuant to section 216(d), and

(E) any additional revised or updated information required by the regulatory authority has been provided. Prior to the approval of any extension of permit the regulatory authority shall provide notice to the appropriate public authorities and take other steps as required in section 214.

(2) If an application for renewal on a valid permit includes a proposal to extend the mining operation beyond the boundaries authorized in the existing permit the portion of the application for revision of a valid permit shall be treated as a new application which addresses any new land areas or any application and subject to the full standards applicable to new applications under this Act.

(3) Any permit renewal shall be for a term not to exceed the periods of the original permit established by this Act. Application for permit renewal shall be made at least one hundred twenty days prior to the expiration of the valid permit.

ENVIRONMENTAL PROTECTION PERFORMANCE STANDARDS

SEC. 211. (a) Any permit issued under any approved State or Federal program pursuant to this Act to conduct surface coal mining operations shall require that such surface coal mining operations will meet all applicable performance standards of this Act, and such other requirements as the regulatory authority shall promulgate.

(b) General performance standards shall be applicable to all surface coal mining and reclamation operations and shall require the operator as a minimum to—

(1) conduct surface coal mining operations so as to maximize the utilization and conservation of the solid fuel resource being recovered so that reaffecting the land in the future through surface coal mining can be minimized;

(2) restore the land affected to a condition at least fully capable of supporting the uses which it was capable of supporting prior to any mining, or higher or better uses of which there is a reasonable likelihood, so long as such use or uses do not present any actual or probable hazard to public health or safety or pose any actual or probable threat of water diminution or pollution, and

the permit applicants' declared proposed land use following reclamation is not deemed to be impractical or unreasonable, inconsistent with applicable land use policies and plans, involves unreasonable delay in implementation, or is violative of Federal, State, or local law;

(3) assure that any temporary environmental damage will be contained in the permit area;

(4) reduce the land disturbed incident to surface mining by limiting the amount of surface excavated at any one time during mining and combining the process of reclamation with the process of mining to keep reclamation operations current, and to complete such reclamation in any separate distinguishable portion of the mined area, as promptly as possible, but not later than the time specified in a reclamation schedule which shall be attached to the permit;

(5) remove the topsoil from the land in a separate layer, segregate it in a separate pile from the other spoil when the topsoil is not replaced on a backfill area within a time short enough to avoid deterioration of the topsoil, maintain a successful cover by quick growing plant or other means thereafter so that the topsoil is preserved from wind and water erosion, remains free of any acid or toxic material, and is in a usable condition for sustaining vegetation when restored during reclamation, except if topsoil is not capable of sustaining vegetation, or if other strata can be shown to be more suitable for vegetation requirements, then the operator shall remove, segregate, and preserve in a like manner such other strata which is best able to support vegetation;

(6) stabilize and protect all surface areas including spoil piles affected by the mining and reclamation operation to control as effectively as possible erosion and attendant air and water pollution;

(7) insure that all debris, acid, or highly mineralized toxic materials, or materials constituting a fire hazard are treated or disposed of in a manner designed to prevent contamination of ground or surface waters and sustained combustion;

(8) with respect to all surface coal mining operations backfill, compact (where advisable to insure stability or to prevent leaching of toxic materials), and grade in order to restore approximate original contour of the land with all highwalls, spoil piles and depressions eliminated (unless small depressions are needed in order to retain moisture to assist re-vegetation or as otherwise authorized pursuant to paragraph (9) of this subsection): *Provided, however,* That in surface coal mining which is carried out at the same location over a substantial period of time, where the operation follows the coal deposit vertically and the thickness of the coal deposit relative to the volume of the overburden is large and where the operator demonstrates that the overburden and other spoil and waste materials at a particular point in the permit area or otherwise available from the entire permit area is insufficient, giving due consideration to volumetric expansion, to restore the approximate original contour, the operator, at a minimum, shall backfill, grade, and compact (where advisable) using all available overburden and other spoil and waste materials to attain the lowest practicable grade but not more than the angle of repose, and to cover all acid-forming and other toxic materials, in order to achieve an ecologically sound land use compatible with the surrounding region: *And provided further,* That in surface coal mining other than as decribed in the first proviso to this paragraph (8) (and other than operations covered by subsection (c) of this section, where the volume of overburden is large relative to the thickness of the coal deposit and where the operator demonstrates that due to volumetric expansion the amount of overburden and other spoil and waste materials removed in the course of the mining operation is more than sufficient to restore the approximate original contour, the operator shall after restoring the approximate original contour, backfill, grade, and compact (where advisable) the excess overburden and other spoil and waste materials to attain the lowest practicable grade but not more than the angle of repose, and to cover all acid-forming and other toxic materials, in order to achieve an ecologically sound land use compatible with the surrounding region and that such overburden or spoil shall be shaped and graded in such a way as to prevent slides, erosion and water pollution and is revegetated in accordance with subsection (b)(13) of this section;

(9) create, if authorized in the approved mining and reclamation plan and permit, permanent impoundments of water on mining sites as part of reclamation activities only when it is adequately demonstrated that—

(A) the size of the impoundment is adequate for its intended purposes;

(B) the impoundment dam construction will be so designed to achieve necessary stability with an adequate margin of safety compatible with that of structures constructed under Public Law 83–566;

(C) the quality of impounded water will be suitable on a permanent basis for its intended use and that discharges from the impoundment will not degrade the water quality in the receiving stream;

(D) the level of water will be reasonably stable;

(E) final grading will provide adequate safety and access for proposed water users; and

(F) such water impoundments will not result in the diminution of the quality or quantity of water utilized by adjacent or surrounding landowners for agricultural, industrial, recreational or domestic uses;

(10) refrain from the construction of roads or other access ways up a stream bed or drainage channel or in such proximity to such channel so as to seriously alter the normal flow of water;

(11) restore the topsoil or the best available subsoil which has been segregated and preserved;

(12) establish on the regraded areas, and all other lands affected, a diverse vegetative cover native to the area of land to be affected and capable of self-regeneration and plant succession at least equal in extent of cover to the natural vegetation of the area; except, that introduced species may be used in the revegetation process where desirable and necessary to achieve the approved post mining land use plan;

(13) assume the responsibility for successful revegetation for a period of five full years after the last year of augmented seeding, fertilizing, irrigation, or other work in order to assure a permanent, self-regenerative, effective, and diverse vegetative cover suitable to the area, except in those areas or regions of the country where the annual average precipitation is twenty-six inches or less, then the operator's assumption of responsibility and liability will extend for a period of ten full years after the last year of augmented seeding, fertilizing, irrigation, or other work: Provided, That when the regulatory authority approves a long-term intensive agricultural postmining and use, the applicable five- or ten-year period for responsibility for revegetation shall commence at the date of initial planting for such long-term intensive agricultural postmining land use; Provided, further, That when the regulatory authority issues a written finding approving a long-term, intensive, agricultural postmining land use as part of the mining and reclamation plan, the authority may grant exceptions to the provisions in this subsection (b) which require a diverse, self-regenerative, or permanent vegetative cover;

(14) minimize the disturbances to the prevailing hydrologic balance at the minesite and in associated off-site areas and to the quality and quantity of water in surface and ground water systems both during and after surface coal mining operations and during reclamation by—

(A) avoiding acid or other toxic mine drainage by such measures as, but not limited to—

(i) preventing or removing water from contact with toxic producing deposits;

(ii) treating drainage to reduce toxic content which adversely affects downstream water upon being released to water courses;

(iii) casing, sealing, or otherwise managing bore holes, shafts, and wells to keep acid or other toxic drainage from entering ground and surface waters;

(B) conducting surface mining operations so as to prevent additional contributions of suspended solids to stream flow or run-off outside the permit area above natural levels under seasonal flow conditions as measured prior to any mining, and avoiding channel deepening or enlargement in operations requiring the discharge of water from mines;

(C) removing temporary or large silation structures from drainways after disturbed areas are revegetated and stabilized;

(D) restoring recharge capacity of the minesites to approximate premining conditions;

(E) preserving throughout the mining and reclamation process the hydrologic integrity of alluvial valley floors in the arid and semiarid areas of the country; and

(F) such other actions as the regulatory authority may prescribe;

(15) prevent any offsite damages that may result from such mining operations and institute immediate efforts to correct such conditions;

(16) with respect to the use of impoundments for the disposal of coal mine wastes, coal processing wastes, or other liquid or solid wastes, incorporate the latest engineering practices for the design and construction of water retention facilities and construct such facilities to insure that the construction will be so designed to achieve necessary stability with an adequate margin of safety to protect the health and safety of the public and which, at a minimum, is compatible with that of structures constructed under Public Law 83–566 (16 U.S.C. 1006); that leachate will not pollute surface or ground water, and that no mine waste such as coal fines and slimes determined as unsuitable for construction constituents by sound engineering methods and design practices are used in the construction of water impoundments, water retention facilities, dams, or settling ponds:

(17) with respect to surface disposal of mine wastes, tailings, coal processing wastes, and other wastes in areas other than the mine working or excavations, stabilize all waste piles in designated areas through construction and compacted layers with incombustible and impervious materials, and assure the final contour of the waste pile will be compatible with natural surroundings and that the site can and will be stabilized and revegetated according to the provisions of this Act;

(18) with respect to the use of explosives—

(A) provide advance written notice to local governments and adjacent residents and advance notice to other residents who would be affected by the use of such explosives by publication in a newspaper of general circulation in the locality of the proposed site at least once a week for four successive weeks of the planned blasting schedules and the posting of such schedules at the entrances to the permit area, and maintain for a period of at least three years a log of the magnitudes and times of blasts;

(B) limit the type of explosives and detonating equipment, the size, the timing and

frequency of blasts based upon the physical conditions of the site so as to prevent (i) injury to persons, (ii) damage to public and private property outside the permit area, (iii) adverse impacts on any underground mine, and (iv) change in the course, channel, or availability of ground or surface water outside the permit area;

(C) refrain from blasting in specific areas where the safety of the public or private property or natural formations of more than local interest are endangered;

(19) refrain from surface coal mining within five hundred feet of active or abandoned underground mine workings in order to prevent breakthroughs: *Provided*, That the regulatory authority may permit an operator to mine through an abandoned underground mine working where such mining through will achieve improved resource recovery, abatement of water pollution or elimination of public hazards;

(20) fill all auger holes to a depth of a minimum of three times the diameter with an impervious and noncombustible material; and

(21) construct access roads, haulroads, or haulageways with appropriate limits applied to grade, width, surface materials, spacing, and size of culverts in order to control drainage and prevent erosion outside permit area, and upon the completion of mining either reclaim such roads by regrading and revegetation or assure their maintenance so as to prevent erosion and siltation of streams and adjacent lands.

(c) The following performance standards shall be applicable to steep-slope surface coal mining and shall be in addition to those general performance standards required by this section: *Provided, however*, That the provisions of this subsection (c) shall not apply to those situations in which an operator is mining on flat or gently rolling terrain, on which an occasional steep slope is encountered through which the mining operation is to proceed, leaving a plain or predominantly flat area:

(1) No spoil, debris, soil, waste materials, or abandoned or disabled mine equipment may be placed on the natural or other downslope below the bench or cut created to expose the coal seam except that where necessary spoil from the initial block or short linear cut necessary to obtain access to the coal seam may be placed on a limited specified area of the downslope: *Provided*. That the spoil is shaped and graded in such a way to prevent slides, erosion and water pollution and that the other requirements of subsection (b) can still be met.

(2) Complete backfilling with spoil material shall be required to a contour necessary to cover completely the highwall and return the site to the approximate original contour, which material will maintain stability following mining and reclamation.

(3) The operator may not disturb land above the top of the highwall unless the regulatory authority finds that such disturbance will facilitate compliance with the environmental protection standards of this section: *Provided, however*, That the land disturbed above the highwall shall be limited to that amount necessary to facilitate said compliance.

(4) No permit for a mining operation shall be issued for a period of time in excess of two years.

(5) For the purposes of this subsection, the term "steep-slope" is any slope above 20 degrees or such lesser slope as may be defined by the regulatory authority after consideration of soil, climate, and other characteristics of a region or State.

(6) With regard to postmining uses of land to which the performance standards of this subsection apply, any industrial, commercial, residential, or public facility development proposed for the affected land shall be shown by proper documentation to be:

(A) compatible with adjacent land uses;

(B) obtainable according to data regarding expected need and market;

(C) assured of investment in necessary public facilities;

(D) supported by commitments from public agencies where appropriate;

(E) practicable with respect to private financial capability for completion of the proposed development;

(F) planned pursuant to a schedule attached to the reclamation plan so as to integrate the mining operation and reclamation with the postmining land use; and

(G) designed by a registered engineer in conformance with professional standards established to assure the stability, drainage and configuration necessary for the intended use of the site;

(d) (1) In cases where an industrial, commercial, residential, or public facility development is proposed for postmining use of the affected land, the regulatory authority may grant appropriate exceptions to the requirements for regarding, backfilling and spoil placement as set forth in subsection 211(b)(8) and in subsections 211(c)(1) and (2) of this Act, if the regulatory authority issues a written finding following public notice and public hearing pursuant to the provisions of section 214 that—

(A) after consultation with the appropriate land use planning agencies, if any, the proposed development is deemed to constitute a higher or better economic or public use of the affected land, as compared with the premining use;

(B) the higher or better economic or public use can be obtained only if one or more exceptions to the requirements for regrading, backfilling, and spoil placement as set forth in subsection 211(b)(8) and subsections 211(c)(1) and (2) of this Act are granted.

(2) With respect to subsection 211(b)(12) and subsection 211(b)(13) of this Act, where postmining land use development is in compliance with all the requirements of this subsection and where the regulatory authority has found that an exception to the revegetation standards is necessary to achieve the postmining land use development, the regulatory authority may grant an appropriate exception allowing maintenance of the vegetative cover to be terminated in advance of the expiration of the five-year or ten-year periods of responsibility for establishment of a permanent vegetative cover at particular locations and times as specified in the approved schedule and reclamation plan.

(3) All exceptions granted under the provisions of this subsection may be effective for a period of not more than three years from the date of issuance of the permit, unless the applicant affirmatively demonstrates that a substantial portion of the proposed development is in process of completion under terms of the approved schedule and reclamation plan.

(e) The regulatory authority may impose such additional requirements as he determines to be necessary.

SURFACE EFFECTS OF UNDERGROUND MINING OPERATIONS

SEC. 212. (a) In order to regulate underground coal mining operations, the Secretary shall promulgate rules and regulations embodying the following requirements and in accordance with procedures established under section 202 of this Act.

(b) Each permit issued under any approved State or Federal program pursuant to this Act and relating to underground coal mining shall require the operator to—

(1) provide for adequate support for the ground surface by assuring appropriate permanent underground mine support in order to prevent subsidence to the extent technologically and economically feasible, maximize mine stability, and the value and use of such surface lands, except in those instances where the mining technology used requires planned subsidence in a predictable and controlled manner;

(2) seal all portals, entryways, drifts, shafts, or other openings between the surface and underground mine workings when no longer needed for the conduct of the mining operations;

(3) with respect to surface disposal of mine wastes, tailings, coal processing wastes, and other wastes in areas other than the mine workings or excavations, stabilize all waste piles created by the permittee from current operations through construction in compacted layers with incombustible and impervious materials and assure that the final contour of the waste accumulation will be compatible with natural surroundings and that the site is stabilized and revegetated according to the provisions of this section;

(4) With respect to the use of impoundments for the disposal of coal mine wastes, coal processing wastes or other liquid or solid wastes, incorporate the latest engineering practices for the design and construction of water retention facilities and construct such facilities to insure that the construction will be so designed to achieve necessary stability with an adequate margin of safety to protect the health and safety of the public and which, at a minimum, is compatible with that of structures constructed under Public Law 83-566 (16 U.S.C. 1006); that leachate will not pollute surface or ground water, and that no mine waste such as coal fines and slimes determined as unsuitable for construction constituents by sound engineering methods and design practices are used in the construction of water impoundments, water retention facilities, dams or settling ponds;

(5) establish on regraded areas and all other lands affected, a diverse and permanent vegetative cover capable of self-regeneration and plant succession and at least equal in extent of cover to the natural vegetation of the area;

(6) prevent off-site damages which may result from such mining operations;

(7) prevent the discharge of water-borne pollutants both during and after mining.

(c) In order to protect the stability of the land, the regulatory authority may prohibit underground coal mining under urbanized areas, cities, towns, and communities and adjacent to industrial or commercial buildings, major impoundments, or permanent streams.

(d) All operators of underground coal mines, both during and after mining, shall have abatement and remedial programs to eliminate any polluting discharge into our Nation's waters and to eliminate fire hazards and otherwise eliminate conditions which constitute a hazard to health and safety of the public.

(e) The provisions of title II of this Act relating to State and Federal programs, permits, bonds, inspection and enforcement, public review, and administrative and judicial review shall be applicable to surface coal mining and reclamation operations incident to underground coal mining with such modifications to the permit application requirements, permit approval or denial procedures, and bond requirements as are deemed necessary by the Secretary due to the differences between surface and underground coal mining. The Secretary shall promulgate such modifications in accordance with the rulemaking procedure established in section 202 of this Act.

REVISION AND REVIEW OF PERMITS

SEC. 213. (a) During the term of the permit the permittee may submit an application, together with a revised mining and reclamation plan, to the regulatory authority for a revision of the permit.

(b) An application for a revision of

a permit shall not be approved unless the regulatory authority finds that reclamation as required by this Act and the State or Federal program can be accomplished under the revised mining and reclamation plan. The revision shall be approved or disapproved within a period of time established by the State or Federal program. The regulatory authority shall establish guidelines for a determination of the scale or extent of a revision request for which all permit application information requirements and procedures, including notice and hearings, shall apply: *Provided*, That such revision or modification shall be subject to notice and hearing requirements established by the State or Federal program.

(c) Any extensions to the area covered by the permit except incidental boundary revisions must be made by application for another permit.

(d) The regulatory authority may require reasonable revision or modification of the permit provisions during the term of such permit: *Provided*, That such revision of modification shall be subject to notice and hearing requirements established by the State or Federal program.

(e) Permits issued pursuant to an approved State program shall be valid but reviewable under a Federal program. Following promulgation of a Federal program, the Secretary shall review such permits to determine if the requirements of this Act are being violated. If the Secretary determines that any permit has been granted contrary to the requirements of this Act, he shall so advise the permittee and provide ninety days for submission of a new application and reasonable time to conform ongoing surface mining and reclamation operations to the requirements of the Federal program.

(f) Permits issued pursuant to the Federal program shall be valid but reviewable under the approved State program. The State regulatory authority may review such permits to determine if the requirements of the approved State program are being violated. If the State regulatory authority determines that any permit has been granted contrary to the requirements of the approved State program, it shall so advise the permittee and provide ninety days for submission of a new application and reasonable time to conform ongoing surface mining and reclamation operations to the requirements of the approved State program.

PUBLIC NOTICE AND PUBLIC HEARINGS

SEC. 214. (a) At the time of submission of an application for a surface mining and reclamation permit, or revision or renewal of an existing permit, pursuant to the provisions of this Act or an approved State program, the applicant shall submit to the regulatory authority a copy of his advertisement of the ownership, precise location, and boundaries of the land to be affected. At the time of submission such advertisement shall be placed in a local newspaper of general circulation in the locality of the proposed surface mine at least once a week for four consecutive weeks. Within seven days after the applicant has submitted his application, he shall also submit copies of letters which he has sent to various local governmental bodies, planning agencies, and sewage and water treatment authorities, or water companies in the locality in which the proposed surface mining will take place, notifying them of his intention to surface mine a particularly described tract of land and indicating the application's permit number and where a copy of the proposed mining and reclamation plan may be inspected. These local bodies, agencies, authorities, or companies have obligation to submit written comments within thirty days on the mining applications with respect to the effect of the proposed operation on the environment which are within their area of responsibility. Such comments shall be made available to the public at the same locations as are the mining applications.

(b) Any person with a valid legal interest or the officer or head of any Federal, State, or local governmental agency or authority shall have the right to file written objections to the proposed surface mining and reclamation operation with the regulatory authority within thirty days after the last publication of the above notice. If written objections are filed and a hearing requested, the regulatory authority shall then hold a public hearing in the locality of the proposed mining within a reasonable time of the receipt of such objections. The date, time, and location of such public hearing shall be advertised by the regulatory authority in a newspaper of general circulation in the locality at least once a week for three consecutive weeks prior to the scheduled hearing date. The regulatory authority may arrange with the applicant upon request by any party to the administrative proceeding access to the proposed mining area for the purpose of gathering information relevant to the proceeding. At this public hearing, the applicant for a permit shall have the burden of establishing that his application is in compliance with the applicable State and Federal laws. Not less than ten days prior to any proposed hearing, the regulatory authority shall respond to the written objections in writing. Such response shall include the regulatory authority's preliminary proposals as to the terms and conditions, and amount of bond of a possible permit for the area in question and answers to material factual questions presented in the written objections. The regulatory authority's responsibility under this subsection shall in any event be to make publicly available its estimate as to any other conditions of mining or reclamation which may be required or contained in the preliminary proposal. In the event all parties requesting the hearing stipulate agreement prior to the requested hearings, and withdraw their request, such hearings need not be held.

(c) For the purpose of such hearing, the regulatory authority may administer oaths, subpena witnesses, or written or printed materials, compel attendance of the witnesses, or production of the materials, and take evidence including but not limited to site inspections of the land to be affected and other surface mining operations carried on by the applicant in the general vicinity of the proposed operation. A verbatim transcript and complete record of each public hearing shall be ordered by the regulatory authority.

DECISIONS OF REGULATORY AUTHORITY AND APPEALS

SEC. 215. (a) If a public hearing has been held pursuant to section 214(b) of this Act, the regulatory authority shall issue and furnish the applicant for a permit and persons who are parties to the administrative proceedings with the written finding of the regulatory authority, granting or denying the permit in whole or in part and stating the reasons therefor, within thirty days of said hearings.

(b) If there has been no public hearing held pursuant to section 214(b) of this Act, the regulatory authority shall notify the applicant for a permit within a reasonable time, taking into account the time needed for proper investigation of the site, the complexity of the permit application and whether or not written objection to the application has been filed, whether the application has been approved or disapproved. If the application is approved, the permit shall be issued. If the application is disapproved, specific reasons therefor must be set forth in the notification. Within thirty days after the applicant is notified that the permit or any portion thereof has been denied, the applicant may request a hearing on the reasons for the said disapproval. The regulatory authority shall hold a hearing within thirty days of such request and provide notification to all interested parties at the time that the applicant is so notified. Within thirty days after the hearing the regulatory authority shall issue and furnish the applicant, and all persons who participated in the hearing, with the written decision of the regulatory authority granting or denying the permit in whole or in part and stating the reasons therefor.

(c) Any applicant or any person who has participated in the administrative proceedings as an objector, and who is aggrieved by the decision of the regulatory authority, or if the regulatory authority fails to act within a reasonable period of time, shall have the right of appeal for review by a court of competent jurisdiction in accordance with State or Federal law.

POSTING OF BOND

SEC. 216. (a) After a surface mining and reclamation permit application has been approved but before such a permit is issued, the applicant shall file with the regulatory authority, on a form prescribed and furnished by the regulatory authority, a bond for performance payable, as appropriate, to the United States or to the State, under an approved State program, and conditioned that the operator shall faithfully perform all the applicable requirements under this Act. The bond shall cover that area of land within the permit area upon which the operator will initiate and conduct surface mining and reclamation operations. As succeeding increments of surface mining and reclamation operations are to be initiated and conducted within the permit area, the permittee shall file with the regulatory authority an additional bond or bonds to cover such increments in accordance with this section. The amount of the bond required for each bonded area shall depend upon the reclamation requirements of the approved permit and shall be determined by the regulatory authority. The amount of the bond shall be sufficient to assure the completion of the reclamation plan if the work had to be performed by a third party in the event of forfeiture; in no case shall the bond be less than $10,000. Liability under the bond shall be for the duration of the surface mining and reclamation operation and for a period coincident with operator's responsibility for vegetation requirements in section 211(b) (13). The bond shall be executed by the operator and a corporate surety licensed to do business in the State where such operation is located, except that the operator may elect to deposit cash, negotiable bonds of the United States Government or such State, or negotiable certificates of deposit of any bank organized or transacting business in the United States. The cash deposit or market value of such securities shall be equal to or greater than the amount of the bond required for the bonded area.

(b) Cash or securities so deposited shall be deposited upon the same terms as the terms upon which surety bonds may be deposited. If one or more negotiable certificates of deposit are deposited with the regulatory authority in lieu of the surety bond, he shall require the bank which issued any certificate to pledge securities of the aggregate market value to the amount of such certificate or certificates, which is in excess of the amount insured by the Federal Deposit Insurance Corporation. Such securities shall be security for the repayment of such negotiable certificate of deposit.

(c) Upon the receipt of the deposit of cash or securities, the regulatory authority shall immediately place the deposit with, as appropriate, the Secretary of the Treasury or a similar State authority under an approved State program, who shall receive and hold the deposit in safekeeping in the name of the United States, or the appropriate State under an approved State program, in trust

for the purpose for which the deposit was made. The operator making the deposit may from time to time demand and receive from the Secretary of the Treasury or the aforesaid State regulatory authority, on written order of the regulatory authority, the whole of any portion of the deposit if other acceptable securities of at least the same value are deposited in lieu thereof. The operator may demand of the Secretary of the Treasury, or the aforesaid State authority, and receive the interest and income from the securities as they become due and payable. When deposited securities mature or are called, the operator may request that the Secretary of the Treasury or the aforesaid State authority convert the securities into other securities acceptable to the operator, and the Secretary of the Treasury or the aforesaid State authority shall so do.

(d) The amount of the bond or deposit required shall be increased or decreased by the regulatory authority from time to time as affected land acreages are changed or where the cost of future reclamation increases or decreases.

BOND RELEASE PROCEDURES

SEC. 217. (a) When the operator completes the backfilling, regrading, and drainage control of a bonded area in accordance with his approved reclamation plan, he may report the completion to the regulatory authority, and request the release of 60 per centum of the bond or collateral for the applicable permit area. The request shall specifically include—

(1) the location of the land affected, the number of acres backfilled and regraded, and the approximate dates of the reclamation work;

(2) the permit number;

(3) the amount of the bond;

(4) a detailed description of the type of reclamation activities performed; and

(5) a detailed description of the results achieved as they relate to the operator's approved reclamation plan.

(b) Upon receipt of the notification and request, the regulatory authority shall, within one hundred days thereafter, make an inspection and evaluation of the reclamation work involved. Such evaluation shall consider, among other things, the degree of difficulty to complete any remaining reclamation, whether pollution of surface and subsurface water is occurring, the probability of continuance or future occurrence of such pollution, and the estimated cost of abating such pollution. If the regulatory authority finds that the reclamation meets the requirements of this Act, he shall so notify the operator and the Secretary of the Treasury or the appropriate State authority and release that portion of the bond requested. The Secretary of the Treasury or the appropriate State authority shall then return to the operator the amount of cash or securities constituting that portion of the bond so released. If the regulatory authority does not approve of the reclamation performed by the operator, he shall so notify the operator by registered mail within a reasonable time after the inspection and evaluation have been made. The notice shall state the reasons for unacceptability and shall recommend actions to remedy the failure.

(c) After revegetation has been established on the regraded mined lands in accordance with the approved reclamation plan, the operator may request the release of additional bond or collateral for the applicable permit area. This request shall specifically include—

(1) location of the land, number of acres, and approximate dates of revegetation work;

(2) the permit number;

(3) the amount of bond sought for release; and

(4) a description of the revegetation work accomplished including seed bed and soil conditioning, the amount and timing of fertilizer application, the types of revegetation established and planting or seeding schedules and an estimate of vegetation survival and plant density.

Upon receipt of the notification and request, the regulatory authority shall within sixty days conduct an inspection and make such determinations as required in subsection (b) above. When determining the amount of bond to be released, the regulatory authority shall retain that amount of bond for the revegetated area which would be sufficient for a third party to cover the cost of reestablishing revegetation for the period of responsibility as specified in section 211 (b) (13) should failure occur.

(d) When the operator has completed successfully all surface mining and reclamation activities, but not before the expiration of the period specified for operator responsibility in section 211(b)(13), he may file a request as hereinbefore provided for release of any remaining portion of the bond. Upon receipt of the notification and request and within six months, the regulatory authority shall make an inspection and evaluation of the reclamation work. If the regulatory authority finds that the reclamation meets the requirements under this Act, he shall so notify the surety company, the operator, and the Secretary of the Treasury or the appropriate State authority and release that portion of the bond requested. The Secretary of the Treasury or the appropriate State authority shall then return to the operator the amount of the cash or securities constituting that portion of the bond so released. If the regulatory authority does not approve of the reclamation performed by the operator, he shall so notify the operator by registered mail within a reasonable time after the request. The notice shall state the reasons for unacceptability and shall recommend actions to correct the failure.

(e) With any application for total or partial bond release filed with the regulatory authority, the operator shall submit a copy of the first advertisement placed at least once a week for three consecutive weeks in a newspaper of general circulation in the locality of the surface mining operation. Such advertisement shall be considered part of any bond release application and shall contain a notification of the precise location of the land affected, the number of acres, the permit number and the date approved, the amount of the bond filed and the portion sought to be released, and the type of reclamation work performed. In addition, as part of any bond release application, the applicant shall also submit copies of letters which he has sent to various local governmental bodies, planning agencies, and sewage and water treatment authorities, or water companies in the locality in which the surface mining and reclamation activities took place, notifying them of his intention to seek release from the bond.

(f) Any person with a valid legal interest or the officer or head of any Federal, State, or local governmental agency shall have the right to file written objections to the proposed release from bond to the regulatory authority within thirty days after the last publication of the above notice. If written objections are filed, and a hearing requested, the regulatory authority shall inform all the interested parties of the time and place of the hearing, and hold a public hearing in the locality of the surface mining operation proposed for bond release within forty-five days of the request for such hearings. The date, time, and location of such public hearings shall be advertised by the regulatory authority in a newspaper of general circulation in the locality once a week for three consecutive weeks.

(g) For the purpose of such hearing the regulatory authority shall have the authority and is hereby empowered to administer oaths, subpena witnesses, or written or printed materials, compel the attendance of witnesses, or production of the materials, and take evidence including but not limited to inspections of the land affected and other surface mining operations carried on by the applicant in the general vicinity. A verbatim transcript and a complete record of each public hearing shall be ordered by the regulatory authority.

(h) The regulatory authority shall make its decision on the bond release request not more than sixty days after the record of the hearing is transcribed.

(i) Any applicant or person who has participated in the administrative proceedings as an objector and who is aggrieved by the decision of the regulatory authority or if the regulatory authority fails to act within a reasonable period of time, shall have the right of appeal to an appropriate United States district court.

SUSPENSION AND REVOCATION OF PERMITS

SEC. 218. (a) Once granted, a permit may not be suspended or revoked unless the regulatory authority gives the permittee prior notice of violation of the provisions of the permit or of the State or Federal program pursuant to this Act and affords a reasonable period of time of not more than ninety days within which to take corrective action, and the regulatory authority determines after a public hearing, if requested by the permittee, that the permittee remains in violation: *Provided, however,* That the continuation of any mining operation endangers the public health or safety, threatens significant damage to public and private property, endangers the quality and quantity of a public or private water supply, or poses other significant harm to land, air, or water resources, the permit, or such portion of the permit related to the offending activity, shall be suspended subject to subsequent determination, after a public hearing, if requested by the permittee, whether the permittee has violated the provisions of the permit, State or Federal programs.

(b) Following the hearing or any corrective action on the part of the permittee, the regulatory authority must issue and furnish the permittee a written decision, independently verified by the regulatory authority, either affirming or rescinding the suspension and stating the reasons therefor. The permittee shall have the right to appeal such decision of the regulatory authority to an appropriate United States district court.

(c) If the regulatory authority revokes the permit of the operate, the operator shall immediately cease any and all surface coal mining operations on the permit areas and the regulatory authority shall declare as forfeited the performance surety bonds for the operation. The Secretary shall be notified immediately upon a revocation of any permit by any State regulatory authority.

INSPECTIONS AND MONITORING

SEC. 219. (a) The Secretary shall cause to be made such inspections of any surface mining and reclamation operations as are necessary to evaluate the administration of approved State programs, or to develop or enforce any Federal program, and for such purposes authorized representatives of the Secretary shall have a right of entry to, upon, or through any surface mining and reclamation operations.

(b) For the purpose of developing or assisting in the development, administration, and enforcement of any approved State or Federal program under this Act or in the administration and enforcement of any permit under this Act, or of determining whether any person is in violation of any requirement of any such State or Federal program or any other requirement of this Act—

(1) the regulatory authority shall require

any permittee to (A) establish and maintain appropriate records, (B) make monthly reports to the regulatory authority, (C) install, use, and maintain any necessary monitoring equipment or methods, (D) evaluate results in accordance with such methods, at such locations, intervals, and in such manner as a regulatory authority shall prescribe, and (E) provide such other information relative to surface mining and reclamation operations as the regulatory authority deems reasonable and necessary.

(2) for those mining and reclamation operations which remove or disturb strata that serve as aquifers which significantly insure the hydrologic balance or water use either on or off the mining site, the regulatory authority shall specify those—

(A) monitoring sites to record the quantity and quality of surface drainage above and below the minesite as well as in the potential zone of influence;

(B) monitoring sites to record level, amount, and samples of ground water and aquifiers potentially affected by the mining and also directly below the lower most (deepest) and coal seam to be mined;

(C) records of well logs and borehole data to be maintained; and

(D) monitoring sites to record precipitation. The monitoring, data collection, and analysis required by this section shall be conducted according to standards and procedures set forth by the regulatory authority in order to assure their reliability and validity; and

(3) the authorized representatives of the regulatory authority, without advance notice and upon presentation of appropriate credentials (A) shall have the right of entry to, upon, or through any surface mining and reclamation operations or any premises in which any records required to be maintained under paragraph (1) of this subsection are located; and (B) may at reasonable times, and without delay, have access to and copy any records, inspect any monitoring equipment or method of operation required under this Act.

(c) The inspections by the regulatory authority shall (1) occur on an irregular basis averaging not less than one inspection per month for the surface mining and reclamation operations for coal covered by each permit; (2) occur without prior notice to the permittee or his agents or employees; and (3) include the filing of inspection reports adequate to enforce the requirements of and to carry out the terms and purposes of this Act and the regulatory authority shall make copies of such inspection reports immediately and freely available to the public at a central location in the pertinent geographic area of mining. The Secretary or regulatory authority shall establish a system of continual rotation of inspectors so that the same inspector does not consistently visit the same operations.

(d) Each permittee shall conspicuously maintain at the entrance to the surface mining and reclamation operations a clearly visible sign which sets forth the name, business address, and phone number of the permittee and the permit number of the surface mining and reclamation operations.

(e) Each inspector, upon detection of each violation of any requirement of any State or Federal program or of this Act, shall forthwith inform the operator in writing, and shall report in writing any such violation to the regulatory authority.

(f) Copies of any records, reports, inspection materials, or information obtained under this title by the regulatory authority shall be made immediately and freely available to the public at central and sufficient locations in the county, multicounty, and State area of mining so that they are conveniently available to residents in the areas of mining as well as in Washington, District of Columbia.

FEDERAL ENFORCEMENT

SEC. 220. (a) (1) Whenever, on the basis of any information available to him, including receipt of information from any person, the Secretary has reason to believe that any person is in violation of any requirement of this Act or any permit condition required by this Act, the Secretary shall notify the State regulatory authority, if one exists, in the State in which such violation exists. If no such State authority exists or the State regulatory authority fails within ten days after notification to take appropriate action to cause said violation to be corrected or to show good cause for such failure and transmit notification of its action to the Secretary, the Secretary shall immediately order Federal inspection of the surface coal mining operation at which the alleged violation is occurring unless the information available to the Secretary is a result of a previous Federal inspection of such surface coal mining operation. When the Federal inspection results from information provided to the Secretary by any person, the Secretary shall notify such person when the Federal inspection is proposed to be carried out and such person shall be allowed to accompany the inspector during the inspection.

(2) When, on the basis of any Federal inspection, the Secretary or his authorized representative determines that any condition or practices exist, or that any permittee is in violation of any requirement of this Act or any permit condition required by this Act, which condition, practice, or violation also creates an imminent danger to the health or safety of the public, or is causing, or can reasonably be expected to cause significant, imminent environmental harm to land, air, or water resources, the Secretary or his authorized representative shall immediately order a cessation of surface coal mining and reclamation operations or the portion thereof relevant to the condition, practice, or violation. Such cessation order shall remain in effect until the Secretary or his authorized representative determines that the condition, practice, or violation has been abated, or until modified, vacated, or terminated by the Secretary or his authorized representative pursuant to subparagraph (a) (5) of this section.

(3) When, on the basis of a Federal inspection which is carried out during the enforcement of a Federal program or a Federal lands program, Federal inspection pursuant to section 201 or during Federal enforcement of a State program in accordance with subsection (b) of this section, the Secretary or his authorized representative determines that any permittee is in violation of any requirement of this Act or any permit condition required by this Act, but such violation does not create an imminent danger to the health or safety of the public, or cause or can be reasonably expected to cause significant, imminent environmental harm to land, air, or water resources, the Secretary or his authorized representative, shall issue a notice to the permittee or his agent fixing a reasonable time for the abatement of the violation. The Secretary, or his authorized representative, may extend the period of time as originally fixed, but in no event shall the original period or original period and extension exceed ninety days. If, upon expiration of the period of time as originally fixed or subsequently extended, the Secretary or his authorized representative finds that the violation has not been abated, he shall immediately order a cessation of surface coal mining and reclamation operations or the portion thereof relevant to the violation. Such cessation order shall remain in effect until the Secretary or his authorized representative determines that the violation has been abated, or until modified, vacated, or terminated by the Secretary or his authorized representative pursuant to subparagraph (a) (5) of this section.

(4) When, on the basis of a Federal inspection which is carried out during the enforcement of a Federal program or a Federal lands program, Federal inspection pursuant to section 201, or during Federal enforcement of a State program in accordance with subsection (b) of this section, the Secretary or his authorized representative determines that a pattern of violations of any requirements of this Act or any permit conditions required by this Act exists or has existed, and if the Secretary or his authorized representative also finds that such violations are caused by the unwarranted failure of the permittee to comply with any requirements of this Act or any permit conditions, or that such violations are willfully caused by the permittee, the Secretary or his authorized representative shall forthwith issue an order to the permittee to show cause as to why the permit should not be suspended or revoked.

(5) Notices and orders issued pursuant to this section shall set forth with reasonable specificity the nature of the violation and the remedial action required, the period of time established for abatement, and a reasonable description of the portion of the surface coal mining and reclamation operation to which the notice or order applies. Each notice or order issued under this section shall be given promptly to the permittee or his agent by the Secretary or his authorized representative who issues such notice or order, and all such notices and orders shall be in writing and shall be signed by such authorized representative. Any notice or order issued pursuant to this section may be modified, vacated, or terminated by the Secretary or his authorized representative. A copy of any such order or notice shall be sent to the State regulatory authority in the State in which the violation occurs.

(b) Whenever the Secretary finds that violations of an approved State program appear to result from a failure of the State to enforce such State program effectively, he shall so notify the State. If the Secretary finds that such failure extends beyond thirty days after such notice, he shall give public notice of such finding. During the period beginning with such public notice and ending when such State satisfies the Secretary that it will enforce this Act, the Secretary shall enforce any permit condition required under this Act, shall issue new or revised permits in accordance with requirements of this Act, and may issue such notices and orders as are necessary for compliance therewith.

(c) The Secretary may request the Attorney General to institute a civil action for relief, including a permanent or temporary injunction, restraining order, or any other appropriate order in the district court of the United States for the district in which the surface coal mining and reclamation operation is located or in which the permittee thereof has his principal office, whenever such permittee or his agent (A) violates or fails or refuses to comply with any order or decision issued by the Secretary under this Act, or (B) interferes with, hinders, or delays the Secretary or his authorized representative in carrying out the provisions of this Act, or (C) refuses to admit such authorized representative to the mine, or (D) refuses to permit inspection of the mine by such authorized representative, or (E) refuses to furnish any information or report requested by the Secretary in furtherance of the provisions of this Act, or (F) refuses to permit access to, and copying of, such records as the Secretary determines necessary in carrying out the provisions of this Act. Such court shall have jurisdiction to provide such relief as may be appropriate. Temporary restraining orders shall be issued in accordance with Rule 65 of

the Federal Rules of Civil Procedure, as amended. Any relief granted by the court to enforce an order under clause (A) of this section shall continue in effect until the completion or final termination of all proceedings for review of such order under this title, unless, prior thereto, the district court granting such relief sets it aside or modifies it.

JUDICIAL REVIEW

SEC. 221. (a)(1) Any action of the Secretary to approve or disapprove a State program pursuant to section 203 of this Act or to prepare and promulgate a Federal program pursuant to section 204 of this Act shall be subject to judicial review only by the appropriate United States Court of Appeals upon the filing in such court within sixty days from the date of such action of a petition by any person who participated in the administrative proceedings related thereto and who is aggrieved by the action praying that the action be modified or set aside in whole or in part. A copy of the petition shall forthwith be sent by registered or certified mail to the Secretary, and the Attorney General and thereupon the Secretary shall certify, and the Attorney General shall file in such court the record upon which the action complained of was issued, as provided in section 2112 of title 28, United States Code.

(2) All other orders or decisions issued by the Secretary pursuant to this Act shall be subject to judicial review only in United States District Court for the locality in which the surface coal mining operation is located. Such review shall be in accordance with the Federal Rules of Civil Procedure. In the case of a proceeding to review an order or decision issued by the Secretary under section 224(b) of this Act, the court shall have jurisdiction to enter an order requiring payment of any civil penalty assessment enforced by its judgment. The availability of review established in this subsection shall not be construed to limit the operation of the rights established in section 223.

(b) The court shall hear such petition or complaint solely on the record made before the Secretary. The findings of the Secretary if supported by substantial evidence on the record considered as a whole, shall be conclusive. The court may affirm, vacate, or modify any order or decision or may remand the proceedings to the Secretary for such further action as it may direct.

(c) In the case of a proceeding to review any order or decision issued by the Secretary under this Act, except an order or decision pertaining to any order issued under section 220(a)(2) of this title, the court may, under such conditions as it may prescribe, grant such temporary relief as it deems appropriate pending final determination of the proceedings if—

(1) all parties to the proceedings have been notified and given an opportunity to be heard on a request for temporary relief;

(2) the person requesting such relief shows that there is a substantial likelihood that he will prevail on the merits of the final determination of the proceeding; and

(3) such relief will not adversely affect the public health or safety or cause significant imminent environmental harm to land, air, or water resources.

(d) The commencement of a proceeding under this section shall not, unless specifically ordered by the court, operate as a stay of the action, order or decision of the Secretary.

(e) Action of the State regulatory authority pursuant to an approved State program shall be subject to judicial review by the court of competent jurisdiction in accordance with State law, but the availability of such review shall not be construed to limit the operation of the rights established in section 223.

REVIEW BY SECRETARY

SEC. 222. (a)(1) A permittee issued a notice or order pursuant to the provisions of subparagraphs (a)(2) and (3) of section 220 of this title, or any person having an interest which is or may be adversely affected by such notice or order or by any modification, vacation, or termination of such notice or order, may apply to the Secretary for review of the notice or order within thirty days of receipt thereof or within thirty days of its modification, vacation, or termination. Upon receipt of such application, the Secretary shall cause such investigation to be made as he deems appropriate. Such investigation shall provide an opportunity for a public hearing, at the request of the applicant or the person having an interest which is or may be adversely affected, to enable the applicant or such person to present information relating to the issuance and continuance of such notice or order or the modification, vacation, or termination thereof. The filing of an application for review under this subsection shall not operate as a stay of any order or notice.

(2) The permittee and other interested persons shall be given written notice of the time and place of the hearing at least five days prior thereto. Any such hearing shall be of record and shall be subject to section 554 of title 5 of the United States Code.

(b) Upon receiving the report of such investigation, the Secretary shall make findings of fact, and shall issue a written decision, incorporating therein an order vacating, affirming, modifying, or terminating the notice or order, or the modification, vacation, or termination of such notice or order complained of and incorporate his findings therein.

(c) Pending completion of the investigation required by this section, the applicant may file with the Secretary a written request that the Secretary grant temporary relief from any notice or order issued under section 220(a)(3) of this title together with a detailed statement giving reasons for granting such relief. The Secretary may grant such relief, under such conditions as he may prescribe, if—

(1) a hearing has been held in the locality of the permit area on the request for temporary relief in which all parties were given an opportunity to be heard;

(2) the applicant shows that there is substantial likelihood that the findings of the Secretary will be favorable to him; and

(3) such relief will not adversely affect the health or safety of the public or cause significant, imminent environmental harm to land, air, or water resources.

(d) Following the issuance of an order to show cause as to why a permit should not be suspended or revoked pursuant to section 220(a)(4), the Secretary shall hold a public hearing after giving written notice of the time, place, and date thereof. Any such hearing shall be of record and shall be subject to section 554 of title 5 of the United States Code. Within sixty days following the public hearing, the Secretary shall issue and furnish to the permittee and all other parties to the hearing a written decision, and the reasons therefor, concerning suspension or revocation of the permit. If the Secretary revokes the permit, the permittee shall immediately cease surface coal mining operations on the permit area and shall complete reclamation within a period specified by the Secretary, or the Secretary shall declare as forfeited the performance bonds for the operation.

ESTABLISHMENT OF RIGHT TO BRING CITIZENS SUITS

SEC. 223. (a) Except as provided in subsection (c) of this section, any person may commence a civil action on his own behalf—

(1) against any person (including (A) the United States, and (B) any other governmental instrumentality or agency to the extent permitted by the eleventh amendment to the Constitution) who is alleged to be in violation of any regulation, order, or permit issued under this Act or of any provision of this Act.

(2) against the regulatory authority where there is alleged a failure of the regulatory authority to perform any act or duty under this Act which is not discretionary with the regulatory authority.

The district courts shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce such or to order the regulatory authority to perform such act or duty, as the case may be, and to apply any appropriate civil penalties under this Act.

(b) Any resident of the United States who is injured in any manner through the failure of any operator to comply with the provisions of this Act, or of any regulation, order, permit, or plan or reclamation issued by the Secretary, may bring an action for damages (including attorney fees) regardless of the amount involved or citizenship of the parties, in an appropriate United States district court.

(c) No action may be commenced—

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

(A) prior to sixty days after the plaintiff has given notice of the alleged violation (i) to the Secretary, (ii) to the State in which the alleged violation occurs, and (iii) to any alleged violator of the regulation, order, or permit, or provision of this Act;

(B) if the Secretary or State has commenced and is diligently prosecuting a civil or criminal action in an court of the United States, or a State to require compliance with the regulation, permit, or order, or provision, but in any such action in a court of the United States any person may intervene as a matter of right;

(2) under subsection (a)(2) of this section prior to sixty days after the plaintiff has given notice of such action to the regulatory authority. Notice under this subsection shall be given in such manner as the Secretary shall prescribe by regulation.

(d) The court, in issuing any final order in any action brought pursuant to this section, may award costs of litigation (including reasonable attorney and expert witness fees) to any party, whenever the court determines such award is appropriate. The court may, if a temporary restraining order or preliminary injunction is sought, require the filing of a bond or equivalent security in accordance with the Federal Rules or Civil Procedure.

(e) Nothing in this section shall restrict any right which any person (or class of persons) may have under any statute or common law to seek enforcement of this Act or to seek any other relief (including relief against the Secretary or a State agency).

(f) The Secretary, if not a party in any action under this section, may intervene as a matter of right.

PENALTIES

SEC. 224. (a) In the enforcement of a Federal program or Federal lands program, or during Federal enforcement pursuant to section 201(f) or during Federal enforcement of a State program pursuant to section 220(b) of this Act, any permittee who violates any permit condition or who violates any other provision of this title, may be assessed a civil penalty by the Secretary, except that if such violation lends to the issuance of a cessation order under section 220, the civil penalty shall be assessed. Such penalty shall not exceed $10,000 for each violation. Each day of a continuous violation may be deemed a separate violation for purposes of penalty assessments. In determining the amount of the penalty, consideration

shall be given to the permittee's history of previous violations at the particular surface coal mining operation; the appropriateness of such penalty to the size of the business of the permittee charged; the seriousness of the violation, including any irreparable harm to the environment and any hazard to the health or safety of the public; whether the permittee was negligent; and the demonstrated good faith of the permittee charged in attempting to achieve rapid compliance after notification of the violation of the violation.

(b) A civil penalty shall be assessed by the Secretary only after the person charged with a violation described under subsection (a) of this section has been given an opportunity for a public hearing. Where such a public hearing has been held, the Secretary shall make findings of fact, and he shall issue a written decision as to the occurrence of the violation and the amount of the penalty which is warranted, incorporating, when appropriate, an order therein requiring that the penalty be paid. Where appropriate, the Secretary shall consolidate such hearings with other proceedings under section 220 of this Act. Any hearing under this section shall be of record and shall be subject to section 554 of title 5 of the United States Code. Where the person charged with such a violation fails to avail himself of the opportunity for a public hearing, a civil penalty shall be assessed by the Secretary after the Secretary has determined that a violation did occur, and the amount of the penalty which is warranted, and has issued an order requiring that the penalty be paid.

(c) If no complaint, as provided in section 224 of this Act, is filed within thirty days from the date of the final order or decision issued by the Secretary under subsection (b) of this section, such order and decision shall be conclusive.

(d) Interest at the rate of six percent per annum shall be charged against a person on any unpaid civil penalty assessed against him pursuant to the final order of the Secretary, said interest to be computed from the thirty-first day after issuance of such final assessment order.

(e) Civil penalties owed under this Act, either pursuant to subsection (c) of this section or pursuant to an enforcement order entered under section 221 of this Act, may be recovered in a civil action brought by the Attorney General at the request of the Secretary in any appropriate district court of the United States.

(f) Any person who willfully and knowingly violates a condition of a permit issued pursuant to a Federal program, a Federal lands program or Federal enforcement pursuant to section 201(f) or during Federal enforcement of a State program pursuant to section 222(a) of this Act or fails or refuses to comply with any order issued under section 222(a) or section 222(b) of this Act, or any order incorporated in a final decision issued by the Secretary under this Act, except an order incorporated in a decision issued under subsection (b) of this section or section 703 of this Act, shall, upon conviction, be punished by a fine of not more than $10,000, or by imprisonment for not more than one year or both.

(g) Whenever a corporate permittee violates a condition of a permit issued pursuant to a Federal program, a Federal lands program or Federal enforcement pursuant to section 201(f) or Federal enforcement of a State program pursuant to section 220(b) of this Act or fails or refuses to comply with any order issued under section 220(a) or section 220(b) of this Act, or any order incorporated in a final decision issued by the Secretary under this Act except an order incorporated in a decision issued under subsection (b) of this section or section 703 of this Act, any director, officer, or agent of such corporation who willfully and knowingly authorized, ordered, or carried out such violation, failure, or refusal shall be subject to the same civil penalties, fines, and imprisonment that may be imposed upon a person under subsections (a) and (f) of this section.

(h) Whoever knowingly makes any false statement, representation, or certification, or knowingly fails to make any statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained pursuant to a Federal program or a Federal lands program or any order or decision issued by the Secretary under this Act, shall, upon conviction be punished by a fine of not more than $10,000, or by imprisonment for not more than one year or both.

(i) As a condition of approval of any State program submitted pursuant to section 203 of this Act, the civil and criminal penalty provisions thereof shall, at a minimum, incorporate penalties no less stringent than those set forth in this section, and shall contain the same or similar procedural requirements relating thereto.

FEDERAL LANDS

SEC. 225. (a) The Secretary shall promulgate and implement a Federal lands program which shall be applicable to all surface mining and reclamation operations taking place pursuant to any Federal law on any Federal land. The Federal lands program shall, at a minimum, incorporate all of the requirements of this Act and shall take into consideration the diverse physical, climatological, and other unique characteristics of the Federal lands in question.

(b) Within ninety days after the date of enactment of this Act, the interim environmental protection standards are to be made part of every existing surface coal mining operation on Federal lands within any State.

(c) Within eighteen months after the date of enactment of this Act, all requirements of this Act through the Federal lands program shall be incorporated by reference or otherwise in any Federal mineral lease, permit, or contract issued by the Secretary which may involve surface coal mining and reclamation operations or surface impacts of underground coal mines. Incorporation of such requirements shall not, however, limit in any way the authority of the Secretary to subsequently issue new regulations, revise the Federal lands program to deal with changing conditions or changed technology, and to require the lease, permit, or contract holder to conform any surface mining and reclamation operations to the requirements of this Act and the regulations issued pursuant to this Act. The Secretary may require as one of the terms and conditions of any permit, lease, or contract to surface mine coal owned by the United States that the lessee, permittee, or contractor give satisfactory assurances that the antitrust laws of the United States will be complied with and that no class of purchasers of the mined coal shall be unreasonably denied purchase thereof.

(d) The Secretary may enter into agreements with a State or with a number of States to provide for a joint Federal-State program covering a permit or permits for surface mining and reclamation operations on land areas which contain lands within any State and Federal lands which are interspersed or checkerboarded and which should, for conservation and administrative purposes, be regulated as a single-management unit. To implement a joint Federal-State program the Secretary may enter into agreements with the States, may delegate authority to the States, or may accept a delegation of authority from the States for the purpose of avoiding duality of administration of a single permit for surface mining and reclamation operation. Such agreements shall, at a minimum, incorporate all of the requirements of this Act, and shall not preclude Federal inspection or enforcement of the provisions of this Act as provided in sections 219 and 220.

(e) Except as specifically provided in subsection (d), this section shall not be construed as authorizing the Secretary to delegate to the States any authority or jurisdiction to regulate or administer surface mining and reclamation operations or other activities taking place on the Federal lands.

(f) This section shall not be construed as authorizing the Secreary to delegate to the States any authority or jurisdiction to regulate or administer surface mining and reclamation operations or other activities taking place on Indian lands or to delegate to the States trustee responsibilities toward Indians and Indian lands.

(g) During the period prior to approval of a Federal program pursuant to this Act, including judicial review of the approval of a Federal program, existing coal surface mining operations on Federal land and Indian land may continue surface mining operations as provided in section 201(h).

SPECIAL BITUMINOUS COAL MINES

SEC. 226. The regulatory authority is authorized to and shall issue separate regulations for the interim and permanent programs for those special bituminous coal surface mines which meet the following criteria:

(a) were in existence on the date of the Act and because of past duration of mining (at least ten years) have substantially committed to a mode of operation which warrants exceptions to some provisions of this title;

(b) involves the mining of more than one coal seam and where mining has been initiated on the deepest coal seam contemplated to be mined in the current operation;

(c) involves a mining operation that follows the coal seam on an inclination of fifteen degrees or more from the horizontal;

(d) involves an operation on the same site for the duration of the mining operation, and will under present mine plan conditions result in a pit depth in excess of nine hundred vertical feet from the original land surface.

Such alternative regulations shall pertain only to the standards governing on-site handling of spoils, elimination of depressions capable of collecting water, creation of impoundments, and regarding to approximate original contour and shall specify that remaining highwalls are stable; all other performance standards in this title apply.

Mr. UDALL (during the reading). Mr. Chairman, I ask unanimous consent that further reading of title II be dispensed with, that it be printed in the RECORD and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Arizona?

Mr. HOSMER. Mr. Chairman, reserving the right to object, I do so for the purpose of again asking the gentleman from Arizona as to his intentions respecting getting the membership out of here by 10 minutes to 5—or the Committee rising, at least, so that they have an opportunity to catch their airplanes.

Mr. UDALL. Mr. Chairman, if there is no objection to my request, it would be our purpose on this side at 10 minutes to 5 to move that the Committee do now rise.

Mr. HOSMER. I thank the gentleman.

Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Arizona?

There was no objection.

AMENDMENT OFFERED BY MR. MELCHER TO THE COMMITTEE AMENDMENT IN THE NATURE OF A SUBSTITUTE

Mr. MELCHER. Mr. Chairman, I offer an amendment to the committee amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. MELCHER to the committee amendment in the nature of a substitute: Section 210(f)(1), page 182, line 22, insert period after "permit" and strike remainder of lines 22 and 23.

Line 22, insert after "permit", the following: "The holder of the permit may apply for renewal and such renewal shall be issued, subsequent to public hearing upon the following requirements and written finding by the regulatory authority that—".

Page 183, line 18: insert period after "authorities", strike remainder of lines 18 and 19.

Section 214(a), page 204, line 18, strike "or renewal".

Section 214(b), page 205, line 19, insert after "proposed", "initial or revised application for a permit for".

Mr. MELCHER. Mr. Chairman, I will try not to take 5 minutes. I want to tell the committee briefly what we are trying to do with this amendment. The section referred to is the section that deals with the renewal of the mining permits after 5 years. It is envisioned that quite a few operations will want a renewal after the 5-year period. At the end of 5 years, then under the amendment they must have a hearing called by the regulatory authority As a result of that hearing, the regulatory authority will make a written finding that A, B, C, D, and E of this section have been complied with.

It will provide the public the opportunity to be present to make its questions known, to hear what is discussed prior to the renewal, and if they care to object to the renewal, they can voice their objections then on the points of A, B, C, D, and E.

As the bill came to the floor it requires that section 214 requirements apply to renewals. Section 214 does go into more detail and is drafted more for the initial application for a permit or for a revision of an application or a revision of a permit.

We find that we are more consistent in putting the hearing requirement for renewals in this section of the bill, and we do satisfy some objections that have been raised by business interests against the bill who have been advised by bonding companies that anything that would cause doubts and a renewal after 5 years or place it in jeopardy or cause undue delay would create a problem with bonding.

It is understood that provisions required in the act must have been, complied with during the life of the first permit and that a public hearing is held and the regulatory authority makes a written finding that the operator is in full compliance with environmental standards of the act, and the terms and conditions of the existing permit and will continue to do when renewed, has provided a performance bond as required, and that appropriate public authorities have been notified that a renewal of the permit is being considered.

Mr. RUPPE. Mr. Chairman, will the gentleman yield?

Mr. MELCHER. I yield to the gentleman from Michigan.

Mr. RUPPE. I want to thank my colleague for offering this amendment. I think it is a very wise, virtually an essential amendment if we are going to have major undertakings developed for either mining, gasification or liquefaction of coal.

The fact of the matter really is that bonding companies will not extend 20-year coverage to any mining company or any firm if they have to go through all of the detailed provisions that are in this legislation at the end of the first 5-year period. We simply must make the renewal procedures more simplified and easier to achieve and give the companies that want to operate over a long period of time and need capital investment which will be amortized over 10 or 15 or 20 years the assurance to their bonding company that they have a likely opportunity for staying in business for that period of time.

Mr. MELCHER. Mr. Chairman, I yield to the gentleman from California (Mr. REES).

Mr. REES. Mr. Chairman, I would like to strongly support this amendment. The Southern County Gas Co. in my area in southern California is planning to build a plant to cost approximately a half billion dollars to produce 1½ billion cubic feet of gas by 1983.

If the bill goes through, they will not be able to get their long-term financing for the plant.

I think this is a good amendment. I personally would still have to come in every 5 years and show that they have complied, but they would not have to go through the complicated machinery provided by this bill. They would have to go through only with the initial proceeding for their permit.

Mr. Chairman, I support the amendment.

Mr. MELCHER. Mr. Chairman, I yield to the gentleman from California (Mr. KETCHUM.)

Mr. KETCHUM. Mr. Chairman, I thank the gentleman for yielding.

I am in doubt as to why this is necessary. In the bill it says:

Any valid permit issued pursuant to this Act shall carry with it the right of successive renewal . . .

Please take a look at pages 182 and 183.

What we are really saying to this individual is that he has done everything right; he has his 5-year permit.

Mr. MELCHER. May I say to the gentleman from California that if he will turn to page 183, lines 18 and 19, he will see that part of the requirements refer to the steps taken in section 214.

Mr. KETCHUM. If the gentleman will yield further, I understand that, but I do not know why whoever your operator is has to go back for another public hearing after he has acceded to everything and he has done everything right, and he cannot get a permit renewal unless he has. I do not see why he has to go to another public hearing.

Mr. MELCHER. Mr. Chairman, I yield to the gentleman from Wyoming.

Mr. RONCALIO of Wyoming. Mr. Chairman, I would say to my friend, the gentleman from California, that what he said is correct, but a closer examination of the section with respect to the ability to renew mining permits reveals that such a right is substantially conditioned, if not neutralized, at 210(f)(1)(E) by the requirement that prior to the approval of the permit, the regulatory authority must provide notice to the appropriate authorities and take "other steps as required" by section 214.

The CHAIRMAN. The time of the gentleman from Montana has expired.

(On request of Mr. UDALL and by unanimous consent, Mr. MELCHER was allowed to proceed for 5 additional minutes.)

Mr. HOSMER. Mr. Chairman, will the gentleman yield?

Mr. MELCHER. I will be glad to yield to the gentleman from California.

Mr. HOSMER. I find on page 182, line 22, that the gentleman strikes certain language that reads as follows: "the finding . . . by the regulatory authority," and then he inserts in lieu thereof this language:

The holder of the permit may apply for renewal and such renewal shall be issued, subsequent to public hearing upon the following requirements and written finding by the regulatory authority that—

Then we go to (A), (B), and (C).

I do not really understand the difference between the language which the gentleman wishes to strike and that which the gentleman wishes to insert insofar as its effect in law goes.

Mr. MELCHER. May I say to the gentleman from California that when in paragraph E we struck reference to section 214, we then removed the requirement for a public hearing, so it was necessary, if we wanted to retain the public hearing—and we do on the renewal of the permits—it was necessary then to restructure that sentence in (f)(1).

I think that the gentleman, if he will review it carefully, will find that it is consistent and sound and meritorious.

Mr. HOSMER. Mr. Chairman, if the gentleman will yield further, this mention was made by the gentleman in his preliminary remarks: that this is in connection with 5-year permits.

We also have 2-year permits in areas which are being mined where there are steep slopes.

Will the gentleman's language apply as well to the steep slope mining people with the 2-year permits as it does to the 5-year permits, or is it just applicable to the 5-year permit situation?

Mr. MELCHER. Mr. Chairman, I wish to yield to the gentleman from Arizona (Mr. UDALL) for the answer to that question.

Mr. UDALL. Mr. Chairman, the answer to the question is: Yes, it would apply to the renewal of any permit.

Mr. Chairman, if the gentleman will yield further, this is a good amendment, and it shows what we have been trying to do.

We have instances where industry comes in and says, "Look, we are going

to invest a billion dollars in a large coal gasification plant, and yet you are going to put us through the full renewal procedure every 5 years."

This is a sensible attempt by the gentleman from Montana (Mr MELCHER) to shortcut and simplify the renewal procedure for an ongoing mining operation. I think it is a fair amendment and one which should be adopted.

Mr. HOSMER. Mr. Chairman, will the gentleman yield further?

Mr. MELCHER. I am happy to yield to the gentleman.

Mr. HOSMER. Mr. Chairman, I will ask the gentleman this:

Will this apply only to mining for the purposes of coal gasification and things like that, or does it apply in all instances?

Mr. UDALL. Mr. Chairman, if the gentleman from Montana will yield to me, I will answer the question.

No. There is a general application here to all renewals. But the impetus for the amendment came from industry. In trying to get some of these very large gasification plants started, they have found difficulty because of the complicated renewal procedure we had.

Mr. HOSMER. Mr. Chairman, will the gentleman yield?

Mr. MELCHER. I yield to the gentleman from California.

Mr. HOSMER. Mr. Chairman, with respect to the 2-year permits, we have run into this problem: That the 2-year operators on steep slopes will, if H.R. 11500 is enacted, have to acquire a great deal of very expensive machinery. I do not mean it is very expensive in terms of expense to Consolidation Coal Co. or some of the big outfits, but I do mean it is very expensive in relation to the small operators, and they are the operators who operate mostly on steep slopes.

Under a 2-year permit, it is impossible for them to get financing because 2 years is simply not long enough to assure the lender that they will have the earnings to pay back the loan.

Does this provision offered by the gentleman from Montana have any relevance to that problem? If so, what is it, and does it sufficiently guarantee the renewal of a permit, in the gentleman's opinion, in order to overcome the banker's reluctance to get into a tenuous situation?

Mr. UDALL. Mr. Chairman, will the gentleman yield further?

Mr. MELCHER. I would be glad to yield to the gentleman from Arizona.

Mr. UDALL. Mr. Chairman, this provides for the renewal of all permits, the 2-year permits and the 5-year permits. But it does not change the basic decision the committee made.

The committee felt that so much damage has been done from deep-slope mining, as compared to open-area mining, there ought to be a shorter permit. We had proposals for 10-year permits and for 1-year permits, and we finally agreed on 2- and 5-year formulas.

Mr. Chairman, we think this makes it easier for the mining industry to comply and to renew permits in both cases.

Mr. MELCHER. Mr. Chairman, I urge the adoption of the amendment.

Mr. RUPPE. Mr. Chairman, I move to strike the requisite number of words.

Mr. HOSMER. Mr. Chairman, will the gentleman yield?

Mr. RUPPE. I yield to my colleague, the gentleman from California.

Mr. HOSMER. Mr. Chairman, I thank the gentleman for yielding.

I am still having a great deal of difficulty with the explanation given by the gentleman from Arizona (Mr. UDALL) as to how this is an improvement to be wrought upon this language and as to the assurances he has given.

When I take this large, heavy bill away with me for the weekend, I will try to read it, and I hope that the Members will take this large, heavy bill home with them and read every word of it so that we may have an interesting discussion about it in the days and weeks ahead.

Mr. RUPPE. If the gentleman will notice, the language that the gentleman from Montana (Mr. MELCHER) has deleted, refers to section 214, public notice and public hearings, and the language in the committee bill prior to the submission of the amendment would suggest that to any renewal all the provisions of section 214 would apply, and would make it rather cumbersome at the time of a renewal for a company to secure renewal of either a 2- or a 5-year permit. At the same time, on page 206 there is also reference to the burden of proof in a request which establishes a renewal permit. The burden-of-proof problem I think would make it very difficult and burdensome for a company which had originally secured a permit to be again forced at the time of a renewal to carry the burden of proof. So the amendment simplifies the procedure, it deletes the burden-of-proof provision, so to speak, at the time of renewal. And yet in terms of gaining a bond or in terms of gaining finances, it would make it much easier for the company undergoing long-term mining or gasification, to secure that type of bond or that type of financing.

Mr. HOSMER. Mr. Chairman, if the gentleman will yield further, do I understand, then, that the real key is the deletion on page 204, line 18, of the words "or renewal"?

Mr. RUPPE. I believe that renewal strikes at the heart of the amendment. It is the renewal that we want to simplify. We are trying to relieve the operator from carrying the burden of proof of securing another permit application.

Mrs. BURKE of California. Mr. Chairman, if the gentleman will yield, I rise in support of the amendment offered by the gentleman from Montana (Mr. MELCHER). I would like to call the attention of my colleague, the gentleman from California (Mr. HOSMER) as to just how urgent it is to have some simplification of the procedure for securing of permits in southern California, where we are attempting to get a gasification plant, and there it depends upon the financing of that plant, so it becomes very important that we have some kind of assurances that it will be long-term financing, unless we do have some assurances that we can do this as long as the project is in accordance with and complies with the permit.

Mr. HOSMER. Mr. Chairman, if the gentleman will yield still further, I assure the gentlewoman from California that I completely understand the point she is making. I, too, have received visitations from Pacific Light Corp. who have a vast interest in this particular matter. As a matter of fact, I am sympathetic with the gentlewoman's viewpoint. What bugs me, however, is the language that is still in the bill at page 206, lines 8 to 10, which insist that there be a public hearing, and that the applicant for a permit shall have the burden of establishing that his application is in compliance with the applicable State and Federal laws.

The usual situation is that one is innocent until proven guilty. In this instance, there is a question in California that the gentlewoman is concerned about that will put a tremendous burden of proof upon the applicant to retain the renewal. As a consequence, I am wondering whether or not the bonanza that the amendment has been painted out to be is in fact present as long as this language that I have just quoted from on page 206 still remains.

Mr. RUPPE. I would make one final comment: We are trying to work out here the problem of permit renewals. We do have a question of burden of proof in initial applications that the gentleman has referred to on line 8, on page 206; it is something that we will probably have to address ourselves to.

Mrs. MINK. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to answer the question raised by the gentleman from California (Mr. HOSMER).

As a result of the amendment that has been offered by the gentleman from Montana (Mr. MELCHER), the full section relating to public notice and public hearings, section 214, now does not cover renewal. So the gentleman's reservation that certain language on page 206 does not fully cover the problems that have been cited with regard to the gas companies who have suggested this amendment, is completely irrelevant.

By removing the reference of section 214 to the renewal section on page 183, we are saying that so long as the companies have had a valid permit and they show they are in complete compliance with the terms and conditions of their existing permit, and show they are in full compliance with the environmental standards and all of the other requirements of their permit, that after having a public hearing, the regulatory authority may renew that permit for an additional 5 years. So both amendments en bloc that the gentleman from Montana has offered will totally correct the renewal problem.

I support the Melcher amendment and urge its adoption.

Mrs. BURKE of California. Mr. Chairman, will the gentlewoman yield?

Mrs. MINK. I yield to the gentlewoman from California.

Mrs. BURKE of California. Mr. Chairman, I wish to voice my strong support

for H.R. 11500. The House Interior Committee, of which I am a member, has worked long and hard on this bill to provide sound environmental protection of the Nation's abundant coal lands without sacrificing much-needed energy resources. I believe the committee has done a good job on a difficult and complex piece of legislation. Congressman UDALL and Congresswoman MINK should be especially commended for the dedication and commitment they have shown.

There is no question that unregulated strip mining has caused untold destruction of our mineral lands throughout the country and particularly throughout the Appalachian region. With the prospect of vastly increased coal production as a result of current domestic energy shortages, it is absolutely essential that this Congress pass legislation to prevent the uncontrolled ravaging of our natural environment.

Coal is the most abundant energy resource in the United States today, accounting for more than 90 percent of our hydrocarbon reserves. Yet, in 1973 coal contributed only 18 percent of the Nation's total energy requirements, while oil and natural gas supplied more than three-fourths. It is clear that the need for coal-derived energy will increase dramatically over the next few years. But it is equally clear that we can meet this need in the long term only by developing and expanding our deep-mining capability. It is estimated that 97 percent of our total coal reserves is recoverable by deep mining and only 3 percent is recoverable by strip mining.

Thus we must look to long-term solutions to our energy problems, without of course neglecting our short-term interests and requirements. I believe the committee bill addresses itself to both of these considerations. While the bill clearly provides stringent environmental safeguards and demands full reclamation of strip-mined lands, it does not ban the strip mining of coal.

In addition to developing our deep mining capabilities, we must begin to develop such promising energy sources as geothermal, solar and ultimately fusion energy.

One of the more promising developments in the energy field has been the refinement of coal gasification technology. Natural gas is one of the cleanest fuels available, but even more than oil, it is in short and limited supply. Much effort, however, has gone into developing an industrial process whereby coal can be converted into clean-burning natural gas.

The Southern California Gas Co., like many other gas companies, has made substantial investments in the development of this process. The technology has been refined to the point where Southern California Gas is expected to begin construction of a major coal gasification plant near Four Corners, N. Mex., later this year. This plant, exclusive of the coal mining, transporting and processing operations, represents an energy investment of approximately $450 million, with over $60 million earmarked for environmental protection.

While Southern California Gas will be dependent on strip-mined coal for use in their New Mexico plant, I am pleased to note that the company supports the environmental standards and the reclamation requirements in the committee bill. However, I am concerned that Southern California Gas and other companies in similar positions may find it difficult to obtain long-term financing for their projects as an unintentional result of the permit renewal system.

Under section 208 of the committee bill, surface mining permits are granted for a term not to exceed 5 years. Section 209 provides for the renewal of permits, but only according to the procedural requirements prescribed for original applications. But it may be difficult to attract investors for a project such as the above unless there is some assurance that the facilities will be fully operational over the life of the project as long as the environmental requirements of this bill are fully carried out. I would support amendatory language to this effect to insure the development of this promising technology.

In the end, we have only one Earth. We must learn to balance the competing needs of our environment with those of our modern society. I believe this bill goes a long way toward meeting this tremendous challenge.

Mr. HECHLER of West Virginia. Mr. Chairman, I move to strike the last word.

I am rather puzzled at this amendment, because the only arguments I have heard for it are that it is going to make it easier for industry and the gas companies, and I should just like to know what it does for people. For example, what protection is afforded in the renewal of permits on those slopes greater than 20 degrees in the East? That is where the greatest damage has been done as a result of strip mining. This has been characterized as a softening amendment and one requested by industry.

I should like to ask the gentleman from Montana for his observations on what this amendment will do to the people in the mountains.

I can see that this would be a very useful amendment so far as the West is concerned.

Mr. MELCHER. If the gentleman will yield, the procedure that would be called for would be to demonstrate that the regulatory agency having authority after public hearing had found that the act had been complied with. That would require whatever requirements there are on the steep slopes.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. HECHLER of West Virginia. I yield to the gentleman from Arizona.

Mr. UDALL. I thank the gentleman for yielding.

The applicant for renewal must make it very clear that steep slopes and any place else must show, reading from page 183:

. . . the present surface mining and reclamation operation is in full compliance with the environmental protection standards of this Act . . .

Including steep slopes and all the rest.

Mr. HECHLER of West Virginia. I simply observe that during the course of the committee hearings a number of weakening amendments suggested by industry were accepted and adopted, and it seems to me that we are going even further in the same direction here on the floor.

Mr. MELCHER. Mr. Chairman, the committee strip mine bill, H.R. 11500, as presented to the House protects property owners' rights where the coal under amended homestead laws was reserved for Federal ownership. Pacific Power and Light, a utility company that serves the Northwest including parts of Montana, Wyoming, Idaho, Oregon, Washington, and California, contends that obtaining consent of the landowner to strip mine federally owned coal will force up the price of electricity.

They recommend condemnation procedures be legislated to settle landowners' interests that would expedite mining of coal they have under Federal lease. They have urged me to consider this alternative to protecting surface owners' rights in the manner that the bill now does it.

Condemnation by a coal company or an electric utility company to move aside a landowner and strip mine is a harsh remedy. Their motives should be examined as a case in point:

What does the land cost per acre?

How much coal per acre lies under the land?

How much return would the Government receive for the coal?

Pacific Power & Light has 15 Federal leases in Wyoming, and 5 in Montana which they share with Decker Coal Co. and Peter Kiewitt Co. I shall include with this statement a list of these leases, the acreage of each, and the date and method acquired as provided to me by the Bureau of Land Management.

Federal coal leases may be obtained through a preference right system or through competitive bonus bidding. In either case Pacific Power & Light is required to pay 50 cents per acre per year to retain each lease. On about half of their leases, obtained through competitive bidding, they paid a bonus of $1.01 to $2.28 per acre which, unlike the 50 cents per acre rental, is only paid once. One lease in Montana held in the name of Peter Kiewitt Co. had a bonus payment of $18.25 per acre.

The Federal lease by itself does not assure Pacific Power & Light that they can mine the coal. First the Interior Department must approve a mining plan and then issue a mining permit.

Pacific Power & Light purchased 5,880 acres of land in Wyoming on some Federal coal leases that they hold. They are in the process, they say, of attempting to buy more land from the owners. While they have not contacted all the owners involved in their 27,146 acres of Federal coal leases in Wyoming, Pacific Power & Light officials say that some of the owners that have been contacted have requested settlements for sale of their land which include compensation for inconveniences, costs of moving and

for what they describe as fringe benefits which range from $750 to $1,000 per acre. That is what Pacific Power & Light would pay for ownership of the land and to completely eliminate any claims of the landowner.

How much coal is there per acre? Three of their leases picked at random in Wyoming and Montana, as reported by the U.S. Geological Survey have coal veins 21 to 43 feet thick lying underground from 26 to 150 feet. That averages each acre of land covers 55,000 tons of coal. Current contract prices for such coal is around $4 per ton.

Pacific Power & Light—and other companies with Federal coal leases—pay 50 cents per year per acre, and have some leases that they paid a bonus of $1 per acre or more, and will pay a royalty of 17½ cents per ton or 6 percent of the value of the coal to the United States when and if it is mined. The value of the coal in the case in point is $220,000 per acre. So settling up with the landowner is going to drive up the cost of electricity? In the case in point Pacific Power & Light is calling the price they are paying for the land and all incidental costs to remove all claims of the surface owner as excessive and inflationary. They have not contacted all of the landowners but object to the fact that the ones that they have contacted are asking as much as four-tenths of 1 percent of the value of the coal, and 1½ cents per ton, for coal that lies under the land. Windfall profit has been mentioned. The coal is federally owned, the lease costs are nominal, the royalty paid to the United States is 17½ cents per ton, or 6 percent, the coal seams are so thick production will run in a range around 55,000 tons per acre.

Windfall for whom?

The western homestead land, if it is to be strip mined, needs to be protected by a firm Federal policy. A basic policy we have approved in the committee bill requires consent of the landowner to have his land strip mined for the Federal coal. That is step No. 1.

Then the Interior Department must overhaul their leasing policy, making it relevant to current values of coal, obtain environmental impact statements as required by law, prevent coal leases from being obtained and held by speculators contrary to the public's interest and provide for realistic return to the Federal Government—17½ cents per ton is too low for coal worth $4 and more per ton. The Interior Department is now proposing 6 percent of the value as an alternative royalty and that is still too low.

Interior Secretary Rogers Morton is preparing a new policy for U.S. owned coal known as the energy minerals allocations recommendations system which he launched several months ago. An environmental impact statement is being circulated. Public hearings will be held in Salt Lake City, Billings, Casper, and Denver in August and comments will be received until August 30. A moratorium on new Federal coal leases and approval on mining plans and mining permits began in early 1971, except for a few ongoing operations where it was necessary to approve new mining permits to avoid shutting down a mine.

The public interest in what is to happen to our public lands and where they are to be strip mined for coal must be protected in the new policy that is being developed. I have called oversight hearings for August 12 and 13 to be held by the Public Lands Subcommittee of the Interior Committee to receive testimony from the Interior Department and the public as to the effect of the development of the energy minerals allocation recommendations system.

I believe it is timely and pertinent to chart the development of Federal coal—establish the guidelines. This bill, H.R. 11500, can set those guidelines for reclamation and protection of our land and water by strong and clear language. It must also protect private property rights of individuals, and I believe it unjust if we did not assure landowners the right to protect that surface—and the right to deny consent for it to be stripped instead of mined by underground methods. It is not going to break the coal companies, the utility companies, or anyone else to allow them a penny or two per ton of coal for being uprooted to start a new enterprise and a new life.

I include the following:

LEASES—PACIFIC POWER & LIGHT CO.

State	Serial number	Acreage	Type lease: Competitive	Type lease: Preference	Date issued
MONTANA					
1	MO57934	7*0.0	× ($1.015)		Oct. 1, 1963
2	MO69782	2,346.7	× ($1.01)		July 1, 1965
Total		3,066.7			
Decker Coal Co. leases:					
1	MO57934–A	1,840.5	× ($1.015)		Oct. 1, 1963
2	MO61685	2,360.2	× ($1.00)		Mar. 1, 1964
3	MO73093	9,409.5	× ($18.25)		Aug. 1, 1966
Total		13,610.2			
WYOMING					
1	W2727	2,880.0		×	Oct. 1, 1969
2	W2728	1,280.0		×	Do.
3	0321780	2,908.0	× ($1.17)		Dec. 1, 1966
4	0322255	1,869.0	× ($2.00)		Do.
5	0312917	480.0		×	Apr. 1, 1967
6	0312918	3,779.0	× ($2.28)		June 1, 1965
7	0313558	4,276.0		×	Jan. 1, 1968
8	0313559	640.0	× ($2.28)		June 1, 1965
9	0244167	1,803.0	× ($1.31)		June 1, 1963
10	092140	671.0		×	July 1, 1962
11	092141	2,480.0		×	Do.
12	C054769	120.0	×[1]		May 31, 1963
13	038597	1,400.0		×	Aug. 1, 1958
14	038602	2,000.0		×	June 1, 1956
15	041355	560.0	× ($1.26)		July 2, 1956
Total acres		27,146.0	11,679	15,467	

[1] No bonus.

LEASES BY PACIFIC POWER & LIGHT CO. AND DECKER COAL

MONTANA

1. Private leases, 2, 200 acres.
2. State leases, 8, 2,760 acres.
3. Federal leases, 3, 16,676 acres.

WYOMING

1. Private leases, 1, 13,960 acres.
2. State leases, 17, 16,800 acres.
3. Federal leases, 15, 27,146 acres.

Total acres leased in Montana and Wyoming—78,210 acres.

Mr. SLACK. Mr. Chairman, during the previous Congress, in October 1972, the House considered and passed a surface mining bill which was offered as a means of protecting the environment. It was a harsh and punitive bill which fortunately was never finally enacted into law. Under the cover of environmental protection, it would have destroyed the coal industry.

I speak on this subject today with a sense of disappointment, because I had hoped that those who support surface mining reclamation would have learned a few things since 1972. I hoped that, given more time for study and assembly of facts, the supporters of this legislation would apply a broader gage to their thinking. Such, however, is not the case.

We are asked to approve for passage a proposal based largely on guesswork, just as in 1972. During 1971–72 the continuous roar of agitation for Federal surface mining legislation was based on the cry: "You cannot reclaim the land."

We do not hear that any more. The passage of time and more careful research by competent authorities reveals that the land can be reclaimed, and very often can be made more economically and socially useful than it was originally.

So we are back again to consider the same type of proposal. It is not an environmental protection law at all, or it would call for fair and equal application of its provisions to the entire mining industry, and to the operations of all industries which disturb the surface. It is a single-shot dagger at the heart of the coal industry, standing separate and alone.

The agitation for a Federal surface mining law began in the Eastern States, and has drawn most of its support from spots in the Midwest and Far West where opinions and projections of academics seem to command major attention. It is not the product of reasoned conclusion from persons who have spent their lives in the production and processing of coal.

It is interesting to note that not a single member of the committee which

reported this bill represents a major coal producing district. I suggest this has much to do with the atmosphere of unreality which has clouded the subject during the past 4 years.

So much has been said on the subject that I will confine myself to a very few certainties.

Passage of this legislation will definitely mean that less coal will be mined at a higher cost per ton. There will be fewer miners working, millions of dollars in State and local taxes lost, and hundreds of millions in transportation and equipment sales wiped out, with obvious effects on the general economy.

As to its effect on our drive to be self-sufficient in energy sources, I leave that to the sound commonsense of the Membership.

I want to state for the RECORD that I favor reclamation. We should require that every ounce of our experience and expertise be applied to restoration of mined lands. And where the land cannot be restored, it should not be mined, not for coal or any other mineral.

But I represent one of the largest coal producing districts in the country. My people are bending every effort to increase the tonnage of coal mined, at the direct urging of this Congress and the Federal Energy Office.

I was not sent to the House of Representatives by the people of my district to vote for—

Less coal production and greater reliance on costly foreign oil;

Less electric power and a cutback in our standard of living;

Less chemical byproducts and job layoffs in the chemical industry;

Fewer mining jobs and unemployed miners with families on welfare;

Destruction of the business tax structure and increases in homeowner taxes to make up the difference; or

A general 25-percent reduction in the business transacted in my congressional district.

So I am opposed to this legislation, H.R. 11500.

If examined closely in relation to its consequences, it has no justification whatsoever. If surface mining control laws are needed, let the people of the States demand them from their legislatures. The types of terrain, methods of mining, and after-effects vary widely from State to State, and the people on the scene are the best judges of what correctives are required in separate and differing conditions.

Mr. FRENZEL. Mr. Chairman, I generally support H.R. 11500 as reported by the Interior Committee on May 30. But, I along with many other Members of this body, have some serious questions about the specifics of this bill. It surely needs amendment.

Strip mining in this country must be closely regulated. But, the wide ranging effects on consumers and energy suppliers, as well as conservation interests, must be considered.

After 3½ years of active consideration of this type of legislation, every Member of Congress now knows that we export 10 percent of our total coal production, that 90 percent of our Nation's fossil fuel reserves are in coal, that surface mining now accounts for almost 50 percent of our coal production, and so forth. We are familiar with the facts. We must now try to make the rough decisions which will govern energy production for years to come.

I will not review the specific provisions of the bill but I want to comment on several specific sections. In cases where the mineral rights to a plot of land are not owned by the surface miner—a common case in many area of the West—a miner would have to obtain the specific written consent of the owner. The bill also provides that if the mining operation will interfere with existing water supplies for the surface owner or his neighbors, the miner must either provide an alternate water source or get written permission. The provision regarding water rights makes good commonsense. Requiring the written consent of surface owners is questionable. This could well result in windfall profits for the surface user and could end up forcing the miners, and thus the consumer, to pay the Government once, and then the landowner again, for the same lump of coal.

Under H.R. 11500, Federal and State programs would have to designate areas unsuitable for surface mining if they are unreclaimable. Although lands already being mined could not be treated, this restricting provision also applies to conflicts with land-use planning, wildlife management, and historic preservation. It is a classic example of inflexible Federal legislation. It recognizes neither the differing capabilities of various mining concerns nor the development of advanced reclamation techniques. The problem of areas unsuitable for mining must be dealt with, but this is not the proper method.

One of the most controversial sections of the bill would require mine operators to restore strip-mined land to its approximate original contour. This would include the cleanup of all high walls, waste piles, and depressions unless insufficient waste material existed to do the job. This is a sound idea, but it unfortunately prohibits alternate "post mining" uses in recreation or certain types of agriculture, as well as being economically prohibitive in many cases. Identical land form is not necessary—environmental compatibility is and that should be the goal here today.

The bill establishes an abandoned mine reclamation fund in the U.S. Treasury. The fund, which would finance reclamation of abandoned or nonreclaimed areas, will be supported through Federal appropriations, lease revenues, the sale or rental of Federal lands, and user fees. This is a useful concept, but care must be taken today to avoid altering it into an anticonsumer, regionally oriented bonanza.

Many complaints have been heard about the public participation requirements in this act. I agree that the committee bill may be bending too far toward unrestrained legal interference. However, it is a well-intentioned attempt to protect the public interest and should be treated gently in any proposed modification.

I am also concerned about the transition period regulations which would be in effect for 30 months after enactment of this bill. I fear that it may impose impossible burdens upon the individual States as well as have a devastating effect upon our short-term coal requirements.

There are several other matters which must be considered in today's debate. The first is the probable fate of H.R. 11500 in conference. We must be careful to create better balance in our bill than exists in the Senate version. Second, we must be sure that energy consumers are not burdened with unnecessary costs or shortages. Great care must be taken not to make it impossible for energy producers and converters to do the job of supplying power to the public.

To maintain this evenhanded balance, I believe it necessary to vote down both the substitutes to be offered by the gentlemen from California and West Virginia (Mr. HOSMER and Mr. HECHLER) and work carefully on the important amendments to be offered to the committee's bill.

Mr. McDADE. Mr. Chairman, the committee bill, H.R. 11500, generally represents an acceptable vehicle to provide for the orderly mining of surface coal in America. It is a compromise between a phaseout of strip mining and a minimal regulatory approach. The argument has been advanced by advocates of the Hosmer bill that the provisions of H.R. 11500 are too tough; that coal production will be cut; and our entire energy needs in turn will be jeopardized.

I take issue with those charges based largely upon our experience in Pennsylvania. The argument has been made that the enactment of strict controls on strip mining could result in the demise or near demise of the surface coal mining industry.

This same argument was made in 1963 to the Pennsylvania Legislature when it was considering the passage of a strong strip mining control law. There were protest marches made to Harrisburg by coal operators and miners and their families. Prophesies of darkened homes and businesses were made. But the Pennsylvania Legislature held firm and refused to bow to this strong lobbying pressure.

What has happened in Pennsylvania since 1963 under our tough strip mining law ought to be recognized by this Congress. Since the imposition of that law and even stronger amendments in 1970 and 1971, Pennsylvania has not only increased its strip mine coal production but increased it substantially by better than 16 percent; at the same time the number of coal operators has also increased. The following information compiled annually by the Pennsylvania Department of Environmental Resources will demonstrate the impact of the 1963 act and its amendments on the bituminous strip mine coal industry in Pennsylvania.

In 1963—when the industry was little regulated—there were approximately 357 operators surface mining approximately 24,233,669 tons of coal. In 1964, after the act was in effect, production dropped slightly to 24,019,760 although significantly the number of operators rose by 26 to 383.

In 1971, before the strong new Pennsylvania amendments were passed, the number of operators remained nearly level at 381 while strip mine coal production increased to 26,700,213 tons.

Most importantly, the figures for 1973 are just in and they show that strip mine coal production rose by over 2.5 million in the last 2 years under the strong new Pennsylvania All Surface Mining Act. The report reveals that approximately 380 operators strip mined approximately 29,500,000 tons of coal in 1973. This means that Pennsylvania has now replaced West Virginia as the No. 2 strip mine coal producer in the United States, despite West Virginia's less stringent restrictions on surface coal mining operators.

The lesson is clear: This Congress should not be swayed by dark threats and strident cries for so-called "flexible" provisions which amount to nothing more than loopholes.

Pennsylvania's experience suggests that by standing firm now we can insure that coal can be mined in such a way that our land and streams are protected.

One major reason we have been able to do both is that we have prefected the reclamation techniques necessary to protect post mined land. One such technique is the concept of approximate original contour. Both the committee bill and H.R. 12898 require backfilling to original contour as well as elimination of highwalls and spoil banks. But the Hosmer bill provides a loophole. Backfilling to—a.o.c.—elimination of highwalls and spoil banks is not required by wording of section 213(d)(1) of H.R. 12898 where "industrial, commercial, agricultural, residential, recreational, or public facility development is proposed for post mining land use of the affected land."

The only objective standard offered in evaluating the post mining land use is that the regulatory authority must have a "consultation with the appropriate land use planning agency, if any," and the regulatory authority must then determine whether the "proposed development is deemed to constitute an equal or better economic or public use of the affected land, as compared with the premining use."

In essence then the State regulatory authority needs only to have the consultation—but not concurrence—of the local planning agency, if any, and then the State regulatory authority must turn itself into a super planning agency and make the decision of possibly great local significance without local government concurrence.

The committee bill, on the other hand, while providing no such exception to backfilling to (a.o.c.), does in section 211(b)(2) set very specific requirements on post mining land use proposals. It states that the proposed use must "not present any actual or probable hazard to public health or safety or pose any actual or probable threat of water diminution or pollution." The Hosmer language does not even require that the regulatory authority consider these health, safety, and water pollution problems in granting an exception to approximate original contour.

Further, the committee bill goes on to say in section 211(b)(2) that the operator's proposed land use must not be: impractical, unreasonable, inconsistent with applicable land use policies and plans, involve unreasonable delay in implementation, or violative of Federal, State or local laws.

The Hosmer language does not require that these basic questions be answered before an exception to approximate original contour is given.

Thus, under the Hosmer bill, if an operator did not wish to backfill to approximate original contour and eliminate his high-wall, all he would be required to do was to merely propose that he was going to make an industrial park out of the affected area. Then all the State regulatory authority would be authorized to do would be to consult with the local planning agency, if any. And if the proposed land use had an "equal economic use as compared with the premining use," the exception must be granted. Thus if the premining use was merely a stand of trees in a forest that was not producing any money, then it would be reasonable for the operator to argue that his post mining land use need not be economically productive. This would of course be his argument if his proposed industrial park fell through and never got going.

The Hosmer bill, therefore, does not require that local planning and zoning compliance, it does not require that the proposed industrial park have a possibility of being a success. The regulatory authority cannot say to the operator: Your proposed industrial park is nowhere near a highway or railroad or an airport or that there are not enough people living near the area to work on the park, or that there are not sufficient water or sewage facilities in the area, or even that pollution would not be caused by the proposed land use.

In short, the Hosmer exception section, section 213(d)(1) lets the operator dictate at his whim when he will reclaim to approximate original contour, and is such a major loophole that the bill provides essentially no standard at all to guarantee reclamation. It is therefore totally unacceptable; it is weaker than any State law now in existence. It would be unworkable and provide no answer to the people of the United States who expect Congress to do something to protect our land and water.

The Hosmer bill also provides another loophole to approximate original contour in section 213(a)(8) when it states that if the permittee demonstrates that the overburden is insufficient to restore to approximate original contour, then the permittee is required only to "cover all acid forming and other toxic materials, to achieve an angle of repose—and to facilitate a land use consistent with that approved for the post mining land use of the mine site." This exemption could apply to nearly every mine where the coal seam is thick and not covered by much overburden, which is the case in nearly all Western coal fields. Thus, in nearly all Western strippings the operator need not backfill to approximate original contour and could leave ugly highwalls and spoil piles around the pit.

The reported bill in section 211(c)(8) does not give such a broad exemption. It recognizes that there are some mines where the coal seam is 90 feet thick and the overburden above it is 60 feet thick—for example, Gillette, Wyo. So it specifically states that the approximate original contour exemption shall apply only to those special operations.

This is only one such example of why we need the effective standards contained in the committee bill. All of us are concerned that coal provide a major role in our energy future. All of us are dedicated to the protection of our environment. I am convinced that H.R. 11500 will provide necessary safeguards and meets our needs.

Mr. ANDERSON of California. Mr. Chairman, I rise in support of H.R. 11500, the Surface Mining Control and Reclamation Act, which has been offered by Mr. UDALL.

This measure strikes a balance in that it permits our Nation to continue to mine the domestic coal needed to meet our energy demands, while at the same time it preserves our land from the ravages of uncontrolled strip mining.

First, coal is our most abundant energy resource, with proven reserves of 400 billion tons, enough to last our Nation 600 to 700 years at the present rate of production.

And 97 percent of this coal is recoverable only by deep mining operations.

Yet, because it is easier for the coal companies, and because replacing the land to a useful condition is not required, the coal companies have elected to strip the topsoil, destroying some $35 million a year in recreational resources, at a weekly rate of 1,000 acres.

As a result, the coal companies have gained the coal for the short term, while they have destroyed the land for generations.

But, the intent of this proposal is not to halt strip mining. Rather, the bill is designed to protect the environment by requiring the operators to rehabilitate the land to a useful condition, or ban strip mining in those areas where reclamation is not possible.

And, as a result, our Nation can continue to mine and use the abundant supply of domestic coal that we possess, and we can protect our land from the strip-mined "moonscapes" that exist in parts of our country.

Thus, I urge my colleagues to join with me in adopting this measure, thereby striking a balance between our need for energy resources and our need to preserve the land for future generations.

Mr. RANGEL. Mr. Chairman, the importance of efficient utilization of America's coal resources and effective environmental regulation seem to clash on this issue before us today, but I believe we have a great deal of middle ground on which to walk to adopt the best legislation to fulfill short-term needs and long-term obligations.

The purpose of the legislation before us is to provide Federal regulations to successfully step in where the States have failed to enact and enforce regulatory laws that will terminate the

vicious raping of the land but allow the development of vital coal resources to prosper.

The energy crisis or shortage we are presently embroiled in dictates greater use of our coal resources. Nearly 50 percent of the 600 million tons of coal produced in 1973 came from one of three surface mining methods: contour mining, area mining, or open pit. Unfortunately, all three of these methods have been inadequately regulated by the 29 States which have surface mining laws and it is now imperative the Federal Government regulate this area to insure efficient, effective, and environmentally responsible surface mining. Although only 3 percent of the Nation's coal resources can be recovered by surface mining, the vast amount of coal this represents makes it compelling we utilize this resource to broaden our energy options and prevent another crisis from developing.

At the same time the environmental impact of surface mining must be given full consideration before enacting any regulatory guidelines. The importance of reclamation, stable and significant revegetation restoration of hydrologic balance is of paramount concern to all concerned about America's future generations. The environmental impact of surface mining should be built into the overall mining process and not dealt with as a secondary problem.

The two major aspects of surface mining—the efficient production of coal and effective environmental regulation can be handled in harmony with consideration for the short- and long-term benefits provided for.

A significant additional point relating to vital development of coal resources is the suggestion currently being debated on the conversion of metropolitan utility companies from oil to coal. If such a drastic move comes to pass, it is absolutely imperative that low-sulfur coal which comes from western surface mines be available for use in eastern metropolitan utility companies. The inner-city environment of almost all large northern cities is a national disaster area. The use of coal in place of oil in utility plants is a very dangerous consideration by itself but coupled with the acute problems of pesticide pollution multiple forms of lead poisoning and sustained and severe noise pollution, the addition of more harmful air pollution as a result of burning coal in metropolitan utility plants is a gross injustice to the people of inner cities. The only meager saving grace in the conversion process would be the use of low-sulfur coal obtained through surface mining. For this reason efficient utilization of western low-sulfur coal resources must be provided for in the best surface mining legislation we can adopt.

Mr. McCLORY. Mr. Chairman, the pieces of legislation which we are considering today present this House with what appears, at first glance, to be a head-on collision between legitimate environmental concerns and the crucial need to provide an adequate source of energy for our citizenry. This is not actually the case. Those who attempt to characterize the debate this afternoon as a confrontation between our energy demands and the national ecology, in my opinion, do a disservice by precluding a serious consideration of this legislation on its merits. The vast majority of Members agree that adequate provisions for reclamation of lands that have been strip mined are absolutely necessary to prevent future despoliation of the American countryside. They also agree that increased production of coal will be essential if the United States seriously intends to achieve self-sufficiency in the energy field within the next decade. As we consider the committee bill, the two authorized substitutes, and the many amendments which will apparently be offered, let us bear these two major points of agreement in mind, and seek a reasonable balance between these equally important competing concerns.

Mr. Chairman, in my own State of Illinois, it is estimated that there are approximately 18,868 acres which have suffered severe environmental damage through strip mining. It is further estimated that it would now cost more than $100 million to reclaim this land. Illinois has the largest coal reserve of any State in the Union; and I am, therefore, particularly interested in insuring that any legislation passed today contains safeguards that guarantee that there shall be no future pockmarked wastelands such as those strip-mined lands which now scar the countryside in Illinois. Surface mining operations are currently destroying approximately 100,000 acres annually across the Nation. Our first priority must be to require the reclamation of lands currently being strip mined.

Mr. Chairman, it is clear that H.R. 15000, introduced by the gentleman from West Virginia, is an unacceptable resolution of the competing interests involved in any serious consideration of strip mining regulation. This bill would entirely phase out the strip mining of coal over the next 4 years, at a time when there is a pressing need for a significant increase, and perhaps doubling, of national coal production. The Hechler bill is really no substitute at all for the other bills under consideration, because it totally ignores current energy demands and the environmental and economic costs of a complete shift to more expensive underground mining techniques.

Mr. Chairman, with respect to the reclamation provisions of both the committee bill and the Hosmer substitute, I am concerned that the requirements that the mined area be restored to its approximate original contour needs to be further clarified so that they will neither prevent strip mining and restrict coal production nor threaten the successful reclamation of the affected land. Whichever bill is adopted, we ought to make sure that we pass strip mining legislation that will do an adequate job of reclaiming mined areas without allowing vital energy requirements to be needlessly or arbitrarily sacrificed to environmental concerns. In brief, the reclamation requirements set out in this legislation at final passage ought to promote a balancing test of legitimate concerns for additional sources of energy while protecting essential environmental interests.

Mr. Chairman, both the committee bill and the Hosmer substitute utilize the "private attorney's general" concept in allowing citizen suits against alleged violations of the legislation. Considering our recent experience with such provisions in earlier environmental acts, we should take steps to insure that such suits are not abused to delay and possibly altogether prevent legitimate strip mining operations. This legislation should be written so that only those citizens who have been adversely affected or who have actively participated in the permit process should be authorized to bring suit to enjoin mining operations.

Mr. Chairman, in my opinion, the Hosmer bill—H.R. 12898—appears to provide the most reasonable and workable resolution to the competing interests that we must deal with in this issue. It is clearly in the best interest of the American people to have strip mining regulation which will allow an increase in coal production to meet the Nation's energy needs and reduce our dependence on foreign energy sources and materials. But it is equally apparent that we need not sanction any further ravaging of the American landscape in order to achieve this goal of energy self-sufficiency. I urge the House today to enact strip mining legislation with fully adequate reclamation provisions, that will allow this country to increase coal production while fully protecting the environment.

Mr. GRAY. Mr. Chairman, I had hoped that the Members of the House would adopt the Hosmer substitute to H.R. 11500 the committee bill, however, it appears that the Members are not yet convinced that the committee bill on surface mine legislation will destroy thousands of jobs in the coal mine industry and deny the Nation a vital energy resource. Mr. Chairman, I would never impugn the motives or question the judgment of my colleagues, however, I believe the House of Representatives is headed on another environmental binge that caused us to pass legislation establishing the EPA. I think in retrospect that we all can agree that some phases of EPA have caused more harm than good to the country. John L. Lewis, the longtime president of the United Mine Workers of America told me something that I have always remembered. He said, "KEN, you don't kill a dog to get rid of a flea." We surely are not going to kill a vital energy source to get at a few coal operators who may not restore some land to its original contour. Mr. Chairman, by and large, most of the unsightly land caused by strip mining was damaged years ago when the various States had no strip mining reclamation laws. My State of Illinois and many others have since passed stringent laws dealing with this problem. To go any further would kill a great amount of production of the energy that can make us self-sufficient in this vital field. Mr. Chairman, when I need advice I go to experts. Who knows this subject better than the companies who mine coal? I would like to read for the RECORD a wire I have received from the president of the Zeigler Coal Co. of Chi-

cago, Ill., who presently is operating five mines in Illinois and Kentucky.

CHICAGO, ILL.,
July 16, 1974.

Hon. KENNETH J. GRAY,
Rayburn House Office Building, Capitol Hill, Washington, D.C.:

The Zeigler Coal Company is a prime supplier of vitally needed energy to utilities, industrials, public and educational institutions in the Midwest. One or more of the above are located in your District.

The surface mine reclamation bill, H.R. 11500, must be defeated. It will have a damaging effect on local, regional and the national economies by reducing and restricting the availability of desperately needed energy. The energy crisis is not past history, it is still with us today and will be for decades to come. The bill will cause a slowdown in a variety of industries within your District.

Everyone suffers if the availability of electric power is reduced and when the monster of runaway inflation is strengthened.

Zeigler presently operates 5 mines in Illinois and Kentucky and is planning further expansion to ease the energy shortage. We are vitally concerned about the well-being of our Nation and all of its people in this time of crisis.

We seek your support in our efforts and strongly urge you to defeat H.R. 11500 and vote for the substitute Hosmer bill H.R. 12898.

Thank you for your cooperation.

MICHAEL E. WALSH,
President, Zeigler Coal. Co.

Mr. Chairman, I also would like to read a wire addressed to the Speaker, other House leaders and myself from Mr. Edwin R. Phelps, president of Peabody Coal Co. of St. Louis, Mo., who has extensive holdings in Southern Illinois and providing thousands of jobs for my people:

ST. LOUIS, MO.,
July 16, 1974.

Floor consideration of Interior Committee approved surface mine legislation (H.R. 11500) and proposed substitutes by Rep. Hosmer (H.R. 12898) and Hechler (H.R. 15000) is scheduled today and tomorrow. Peabody Coal operates or has mineable surface mine coal reserves in fifteen states. Peabody Coal and the Nation has an enormous stake in the achievement of reasonable reclamation standards in any Federal legislation. Our reclamation experts have carefully analyzed H.R. 11500 and believe it to be structured in such a way as to constitute a serious threat to present and future coal production. It is, therefore, urged that H.R. 11500 be rejected and that the House accept H.R. 12898, a substitute measure which in itself contains reclamation requirements and restrictive provisions which must be very carefully administered in order to prevent unwarranted interruption to coal production in the future.

Our experience in the States wherein we engage in surface mining is that strict reclamation requirements have already been enacted into law during the five-year period of the current Federal legislative effort which are sufficient to protect the public interest and to insure against any ravaging of the land. If, however, Federal reclamation controls are to be adopted by the Congress, they should be flexible enough to permit the maximum production of coal consistent with acceptable and adequate State and Federal reclamation standards. The achievement of energy self-sufficiency in this country requires avoidance of any unwarranted controls, excessive reclamation requirements, or the establishment of cumbersome and time-consuming administrative machinery in any surface mine legislation. Copies of this statement are being sent to House members in the fifteen States wherein we operate or have substantial coal reserves.

EDWIN R. PHELPS,
President, Peabody Coal Co.

Mr. Chairman, all of these experts cannot be wrong. We must amend the committee bill to protect the rights of the coal mining industry or defeat the bill outright. I think the safest thing for America would be the latter. Thank you.

The CHAIRMAN. The time of the gentleman has expired.

The question is on the amendment offered by the gentleman from Montana (Mr. MELCHER) to the committee amendment in the nature of a substitute.

The amendment to the committee amendment in the nature of a substitute was agreed to.

Mr. UDALL. Mr. Chairman, I move that the committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. SMITH of Iowa, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 11500) to provide for the regulation of surface coal mining operations in the United States, to authorize the Secretary of Interior to make grants to States to encourage the State regulation of surface mining, and for other purposes, had come to no resolution thereon.

PERMISSION FOR COMMITTEE ON RULES TO FILE PRIVILEGED REPORTS

Mr. SISK. Mr. Speaker, I ask unanimous consent that the Committee on Rules may have until midnight tonight to file privileged reports.

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

There was no objection.

LEGISLATIVE PROGRAM

(Mr. CONABLE asked and was given permission to address the House for 1 minute.)

Mr. CONABLE. Mr. Speaker, I take this time for the purpose of inquiring of the distinguished majority leader if he would inform this body of the schedule for the remainder of this week and for next week.

Mr. O'NEILL. Mr. Speaker, will the acting minority leader, the gentleman from New York, yield?

Mr. CONABLE. I yield to the distinguished majority leader.

Mr. O'NEILL. I am grateful to the gentleman for yielding.

The program for the House of Representatives for the week of July 22, 1974, is as follows:

Monday is District day, and there are no bills schedule.

On Monday and Tuesday we will consider the following:

House Resolution 1107, broadcasting of hearings and meetings of committees; and

H.R. 11500, Surface Mining Control and Reclamation Act, to conclude consideration.

For Wednesday and the balance of the week the program is as follows:

Interior appropriations for fiscal year 1975;

H.R. 15264, Export Administration Act, under an open rules, with 1 hour of debate;

H.R. 15578, Small Business Act amendments, under an open rule, with 1 hour of debate;

H.R. 13044, Defense Production Act extension, under an open rule, with 1 hour of debate;

H.R. 15416, AEC omnibus legislation, under an open rule, with 1 hour of debate; and

H.R. 15582, Atomic Energy Act amendments, to enable Congress to concur or disapprove certain international agreements for peaceful cooperation, under an open rule, with 1 hour of debate.

Conference reports may be brought up at any time, and any further program will be announced later.

Mr. CONABLE. Mr. Speaker, I thank the gentleman.

ADJOURNMENT TO MONDAY, JULY 22, 1974

Mr. O'NEILL. Mr. Speaker, I ask unanimous consent that when the House adjourns today it ajourn to meet on Monday next.

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

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. O'NEILL. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday of next week.

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

There was no objection.

GENERAL LEAVE

Mr. HECHLER of West Virginia. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous matter, in the debate on H.R. 15000, the so-called Hechler substitute.

The SPEAKER pro tempore (Mr. MCFALL). Is there objection to the request of the gentleman from West Virginia?

There was no objection.

WESLACO LULAC

(Mr. DE LA GARZA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DE LA GARZA. Mr. Speaker, I rise at this time to inform the Members of an event of great national significance at which I had the honor of presiding as master of ceremonies. The Weslaco, Tex., Council of the League of United Latin American Citizens—LULAC—to my

knowledge, the oldest of the several national organizations comprised of Spanish-speaking citizens of our country—dedicated a beautiful memorial to all the citizens of that south Texas community who died while in the service of our country.

In a setting of unequaled beauty, surrounded by a magnificent playground where the children and people of Weslaco will enjoy countless hours of recreation, the LULACs have erected a monument which is a beautiful, yet serious, reminder of the great tragedy of war. It is composed of a white triangular shape, which depicts a mother, or the Nation; from its bosom protrude three marble cubes, signifying World War II, the Korean and Vietnamese conflicts. The figure gives the appearance of looking down upon four marble squares, resembling tombstones, which stand about 4 feet high. One is for the Army, the Navy, the Air Force and the Marine Corps. On each are engraved the names of those citizens of Weslaco who died while serving in each of the respective services. To the side are poles for the United States and Texas flags. In front is a black marble square, to be used for ceremonial occasions, and leading away from it, a divided walk with white rosebushes in the center. It is a very impressive monument.

At the ceremony the mayor of the city of Weslaco, the Honorable Pablo Pena, welcomed all to his fair city. We were honored to have the National President of LULAC, the Honorable Joe Benitez, place the first wreath upon this monument of love and dedication to the fallen heroes. An eloquent and inspiring oration was delivered by the Honorable Manuel Gonzalez of Waco, Tex. State director of the organization, who was introduced by the Honorable Tony Bonilla of Corpus Christi, the national vice president of LULAC.

The Weslaco Council president is Mr. Hernan Gonzales, and the chairman of the monument committee was Mr. Rene Garza, who gave an explanation of the history and the significance of the monument, assisted by Mr. Refugio Granados. The monument was blessed by the Reverend F. Alfonso Aisa. A group of volunteers from the Weslaco school band participated by rendering taps and our National Anthem. The honor guard was composed of the U.S. Marine recruiters assigned to our area of south Texas. I, as master of ceremonies, had the great honor, which I performed with deep pride, to lead the assembled group in the pledge of allegiance to our flag at the conclusion of the ceremony.

Mr. Speaker, the greatness and beauty of this act just cannot be expressed in mere words. Dedication to the principles and ideals of this country could be felt with an electrifying presence. The words of those who participated were those of patriots. Their wishes were for the preservation of the Union, the safeguarding of our individual liberties, and the bestowal of those liberties on all citizens without regard to color or creed. They sought the opportunity to live and work and to acquire an education for all who live in this great country of ours. They hoped that no person would be denied the sacred, God-given right to life, liberty, and the pursuit of happiness, as promised by our Declaration of Independence. They all asked, and I echoed the sentiment, "Is this too much to ask"? Is this too much to ask at the foot of that beautiful altar dedicated to those who have fallen in war to make all this possible?

The answer, of course, Mr. Speaker, lies in the hearts and souls of all Americans. But the implementation of those principles and ideals basically lies right here in this Chamber, and it is for this reason that I respectfully bring this event to your attention. We cannot, we must not, rest until all Americans can stand, with heads high, and say, in truth and in fact, "I as an American fully share in all the blessings of this great country of ours." If I am worthy of dying for my country, I should be worthy of sharing in its blessings. I repeat what was said at Weslaco, "May God bless America" and respectfully add "and bless you my colleagues" as we labor to make all this possible.

FIFTH ANNIVERSARY OF MOON LANDING—"WE CAME IN PEACE FOR ALL MANKIND"

(Mr. BOLAND asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BOLAND. Mr. Speaker, this Saturday, July 20, marks the fifth anniversary of man's landing on the Moon.

We can all take pride in the fact that it was an American, Neil Armstrong, who first stepped onto the dusty surface of the Sea of Tranquillity. A few minutes later he was joined by Edwin Aldrin while their companion, Michael Collins, circled the Moon in the Apollo command ship. It was one of this Nation's finest hours.

Today, the tumult and the shouting have stopped. In our own way, we have all come to take space flight for granted. But if time has caused us to forget, it has not diminished the achievement we celebrate this week. The Apollo project harnessed the best spirit of this country, and for a brief moment the world came a little closer together. It is hard to believe that it all began less than 15 years ago. I recall vividly the day John Kennedy came before this House and announced the goal of landing a man on the Moon and returning him safely to Earth by the end of the decade. The promise was kept and the goal was achieved—but now that it is over with and behind us, some have asked if it was worth the cost. The answer is an unqualified yes.

Apollo will return its investment by a hundredfold. Already, more than 25,000 inventions have been spun off from the space program. From nonstick frying pans to miniature pacemakers, Apollo's contribution has only just begun. Advances in electronics, computers, and biosciences, which normally might take 20 or 30 years to achieve were accomplished in less than 10.

But technological breakthroughs are only a part of the Apollo program's benefits; 840 pounds of Moon rocks were brought back to Earth by 12 American astronauts. It will be years before all this material is examined and analyzed. The results could unlock the deepest mysteries of the universe and provide scientists with a better understanding of the Earth's origin.

But perhaps Apollo's most significant legacy is the intangible feeling we all shared as the astronauts looked back on the fragile spaceship Earth, suspended in the harsh blackness of space. It reminded us all how small and fragile we are, and how we must learn to live and work together if mankind and this planet are to survive.

It is right that we celebrate this anniversary, and I salute the hundreds of thousands of Americans that made it possible. Twelve Americans have walked on the surface of the Moon and returned safely to their mother planet. No other man or woman has ever left the confines of Earth gravity and stood on the soil of our nearest neighbor. That is an achievement we should not forget. It is an achievement we can be proud of—but we must temper our pride by remembering the promise we all shared on that day—and by recalling the message on the plaque that was left on the Moon that historic day 5 years ago:

"Here men from the planet Earth first set foot on the Moon—July, 1969 A.D."

"We came in peace for all mankind."

ATTACK ON SENATOR FRANK CHURCH DEPLORED

(Mr. HANSEN of Idaho asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. HANSEN of Idaho. Mr. Speaker, among the highest priority tasks facing all Americans, especially those of us who hold public office, is to rebuild trust in government and politics which has been so seriously eroded by events of the past few months. The growth of cynicism and disillusionment among the people is alarming. If we do not reverse that trend, the system that has served us so well over two centuries could be in jeopardy.

Candidates for public office and their supporters have a special obligation and an opportunity in this election year to help repair the damage we have suffered by conducting clean campaigns to help raise the level of public confidence in politics. By our words and actions we should elevate rather than degrade politics.

Mr. Speaker, my concern about the urgent need to clean up politics and elections impels me to speak out to repudiate and condemn a smear campaign being waged against Idaho's senior Senator FRANK CHURCH by some official of the John Birch Society.

I deplore the tactics that are being used by that organization through the publication and circulation in Idaho of thousands of copies of an article that attempts to picture Senator CHURCH as pro-Communist. I am shocked by the article, which is filled with statements out of context, misstatements and inaccuracies that distort the Senator's record of public service. This is reminiscent of

the slanderous charge made a few years ago by Robert Welch, founder of the society, that President Eisenhower was a conscious agent of the Communist conspiracy.

I know I speak for the overwhelming majority of Republicans in clearly and completely disassociating our party from this unfair and untrue attack on Senator CHURCH. No Republican candidates are involved in the dissemination of the article. I am sure that it does not reflect the viewpoint of all of the society's members in Idaho, many of whom I know to be well intentioned, sincere, and patriotic citizens. The time has come, however, to speak out to denounce tactics such as this that bring discredit to politics and elections.

I disagree with FRANK CHURCH on many public issues. Our differences are often wide and fundamental. But, I have great respect for him as a man and as a friend and I know him to be a loyal and patriotic American. We have worked closely together and in cooperation with other members of Idaho's congressional delegation in securing the passage of legislation of special benefit to Idaho such as the American Falls Dam replacement and the Sawtooth National Recreation area.

I particularly resent the scurrilous attack in the article against Mrs. Verda Barnes, administrative assistant to Senator CHURCH. The author charges that Mrs. Barnes was handpicked for that position by Walter Reuther, which the facts show to be totally false, and that she has pro-Communist leanings. I have known Mrs. Barnes for 25 years. She comes from a pioneer Idaho family and grew up in St. Anthony, near my own home town of Idaho Falls. Her long list of accomplishments in many fields reflect much honor and credit on her native State. She is one of the most intelligent, capable, and humane person it has been my privilege to know.

Mr. Speaker, FRANK CHURCH and Verda Barnes need no defense from me. Each has given a lifetime of service that stands as the most eloquent and convincing refutation of the charges contained in the article. Rather my purpose here is to clearly disassociate myself and the Republican Party from these tactics and to condemn the kind of dirty tricks that have done so much in recent months to give politics a bad name and to put all elected officials under a cloud.

There is no place in politics for tactics such as this. I would hope that all candidates and their supporters will rise up and repudiate attempts such as this by outside forces to interfere in and try to influence the outcome of an Idaho election.

There are plenty of issues to permit an honest campaign. We should debate the issues openly and vigorously and confine our criticism to the public record and positions of candidates without making unfounded charges that reflect on their character, integrity, or patriotism.

By conducting our election campaigns at this level we can contribute greatly to the healing and cleansing process for which there is such a desperate need in America today.

DEALING WITH THE PROBLEMS OF THE AMERICAN ECONOMY

The SPEAKER pro tempore (Mr. MCFALL). Under a previous order of the House, the gentleman from Oklahoma (Mr. ALBERT) is recognized for 60 minutes.

GENERAL LEAVE

Mr. ALBERT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject matter of my special order.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

Mr. ALBERT. Mr. Speaker, it is not difficult these days to find evidence that the American economy is in deep trouble.

For instance, disheartening new statistics made public today confirm that we have a full-scale recession on our hands. The huge decline in national production in the first quarter of this year was followed by a further decline from April through June, two successive quarterly declines.

But we all knew the economy was in serious trouble. We knew it when we went to the grocery store and saw prices had gone out of sight; or when we looked for new housing, only to learn we would have to pay more than 9 percent for mortgage money; or 12 percent on a new car loan.

Business Week magazine has even gone so far as to say there are disturbing resemblances between the world today and the world in the summer of 1929, just before the start of the great depression.

Now this strikes me as excessively gloomy. I do not see any repetition of the great depression just around the corner. But, on the other hand, Business Week has a point: the problems of our economy are real and substantial.

They are manageable now, if we all pull together, but they are serious and will become more serious, if we do not begin working together.

Our biggest problem right now is, without question, inflation. Some people say that inflation cannot be controlled. I do not believe this. I believe that inflation can be controlled—if we use the right means.

I am genuinely sorry to say that the administration does not in my judgment have the right methods. I am sorry because we are all now paying the price for the administration's adherence to outmoded, ineffective, traditional Republican economic shibboleths.

In Republican economic theory, if I understand it correctly inflation is easy enough to control. The cause of inflation, under this theory, is too easy credit and too strong a drive toward full production and full employment. Therefore, tight money and high unemployment should cause inflation to decline, or even cease.

The trouble is that this theory is simply not working—as 6 years of experience with simultaneously high unemployment, high interest rates and even higher inflation should amply demonstrate to even the most ardent advocates of the old time religion.

For example, when the cause of inflation in a particular industry is a worldwide shortage of a particular raw material, squeezing down tightly on credit throughtout our whole economy is, frankly, a little like draining blood from a weakened patient. The answer here is clearly to work to increase supplies, or to develop substitutes—not to throttle the still healthy sectors of our economy.

Or, when the cause of inflation is inflationary expectations and strong market power on the part of both labor and business alike, the answer is obviously an income policy.

Congress gave the President power to fashion and administer such a policy under the economic stabilization program. And look what the administration did with it.

Instead of fashioning a fair and steady program, which would have made a real contribution to wringing inflation out of the economy, the President first delayed for months until he had to act in a crisis atmosphere. And then, when he finally acted, he fashioned a program which was both grossly inequitable and administered so badly that we in the Congress are hesitant now—even though we know we need an income policy—to give the President this authority again.

Under the administration's implementation of wage and price controls, prices and profits were allowed to soar, while the incomes of working men and women were held down tightly. The Nation was put through one of the most confusing and chaotic administrative performances I, personally, have ever seen—a succession of phases and freezes almost totally without guiding purpose and coherence.

The outcome of this has been that, not only do we still have rampant inflation, but the administration has virtually destroyed one of our most valuable tools for combating inflation. We are left trying to do battle against the inflationary market power of giant corporations with only the single, inappropriate tool of tight money. The large corporations, after all, are not much affected by tight money, since they finance most of their activities from retained earnings. An income policy is the key here, but the administration has rendered it ineffective.

If the large corporations are not much affected by the administration's tight money policy, who is? I think we all know the answer to that.

It is the average working person, who finds the cost of everything he buys soaring out of sight, because of the high interest charges he pays directly on items he finances and because of high indirect finance costs for manufacturing and carrying business inventories. It is the small businessman who suffers, when he finds credit unavailable at any price. It is the State and local governments, all of us, really, who must pay astronomical interest rates to finance badly needed public projects.

No, inflation cannot be curbed only by strangling the economy through terribly tight money and high interest rates. But what we can do this way is to put, quite literally, millions of people

out of work. The unemployment rate has risen sharply from 3.3 percent when the administration took office and is climbing toward 6 percent by the end of the year. Each percentage point represents almost a million more unemployed persons.

Even if the supposed tradeoff between unemployment and inflation were a certain one—which it is not—I doubt that it would be worth the price. At best, we could trade about a half percent in inflation for about 1 percent or more in unemployment.

The tradeoff would simply not be worth the price even if it were a wise policy direction.

But it is not desirable direction for policy to encourage unemployment. After all, if a scarcity of goods is the cause of inflation and the bidding up of prices, what kind of economic sense does it make to drive unemployment up and production down even farther than they are now? We should be striving to put more people to work and to produce more goods, not trying to cut back on wages and employment.

Already this year we have experienced the sharpest decline in production in decades—and yet inflation will run at about 9 percent or above for the year, ample evidence, I believe, that the administration is working on the wrong side of the equation.

With unemployment high and production way down, it is not surprising that we have run some substantial deficits in the Federal Government in recent years. Now, this is an important matter, and one I want to dwell on for a moment, because it is so central to understanding the real causes of inflation.

The administration has frequently placed the blame on the Congress for large budget deficits and then they have said that these deficits are the cause of inflation. It is time we answered both of these arguments squarely.

First, has the Congress caused these huge budget deficits by going on spending sprees? Absolutely not. The actual expenditures made or authorized by Congress have been well within 1 percent of President Nixon's original recommended expenditures.

Why then have we had the huge budget deficits of the Nixon years and a 25 percent increase in the national debt? Because of large Federal revenue shortfalls resulting from the administration's mismanagement of the economy and consequent recessions.

The truth is that Congress has not overspent but that, rather, the administration's bad management of the economy has produced staggering revenue shortfalls.

That should answer satisfactorily, it seems to me, the argument that Congress has been overspending. But what of the President's second argument, that the current level of spending is too high, and is fanning the fires of inflation?

I do not believe the statement to be true. If our economy were bumping up against the limits of its productive capacity, then greater spending would, indeed, increase inflation. But we are running at barely 80 percent of our productive capacity—10 percent below the level of the noninflationary Kennedy-Johnson years.

The budget at full employment is heavily in surplus and there is no danger of overstimulation of the economy from the Federal budget at this time. In fact we are erring, if anything, on the other side by not spending a little more in the right places to take better care of the unemployed and those living on social security. Certainly in our present sagging economic condition we are not overstimulating the economy with the Federal budget.

But, still we do have rampant inflation. Where then does it come from? The Chairman of the President's Council of Economic Advisors blames the poor, beleaguered American citizen. Mr. Stein claims that the American public would not accept a tax increase when one was needed to finance the Vietnam War.

But, where was the Nixon administration at that time? Leading the fight, in 1969, and again in 1971, for a tax cut for big business. That is the record on how the administration helped stop inflation by increasing taxes to finance the war.

What about administration efforts to deal with serious supply bottlenecks?

In the area of fuel and energy shortages, the administration ignored the advice of its own blue-ribbon, Cabinet-level Commission to abandon oil import quotas. Thus the administration prevented the entry of foreign oil at a time when domestic supplies were critically low, ultimately making our Nation much more vulnerable than we need have been to the oil boycott and resulting skyrocketing fuel costs.

We all know how food prices have risen since Mr. Nixon took office. The food problem in the United States was once a problem of tremendous surpluses. But now food is scarce.

So, what did the administration do? It sold off America's grain to Communist China and the Soviet Union. Not for profit or advantage, but with taxpayer supported subsidies. The result? Increased food costs for the American consumer, decreased profits and possible losses for the farmer, and, for the first time in America's history, little or no surplus of food to fall back on should natural disasters prevent the industrious American farmer from performing at anything less than record levels of production. And, history is about to be repeated in other areas.

On the international front, the Administration has just finished selling off our stockpiles of copper and aluminum, rendering us vulnerable to the producers of these critical supplies, who appear about to curtail production in order to raise their prices.

In West Germany, in Switzerland, and even in the United States, a number of banks have failed or are in serious trouble due to speculation in foreign money markets.

In the United States the Franklin National Bank is now striving with the aid of massive inputs of money from the Federal Reserve, to restore itself to some reasonable state. In West Germany the Herstatt bank has collapsed.

The wildly fluctuating foreign money market is being seriously affected by increased flow of Arab oil wealth. The weakness of the Italian economy, the instability of governments worldwide all point to serious problems which require attention, not neglect; action, not reaction or inaction.

But, what is the administration doing? Nothing that I know of. And, doing nothing, as in the past, will hurt everyone, workers, consumers, businessmen, and farmers.

Instead of accepting responsibility for their errors, the administration is merely casting about for someone else to blame—most recently, the American public or, in other words, everybody but the administration.

The action is symptomatic of the failure to exercise the leadership and accept the responsibility that goes with the Office of the President.

I have no quarrel with the President. In fact, I would very much like to call upon him to deliver a positive program to get our economy moving again, for our constitutional system, as well as our economic system, works best when the President, of either party, exercises his substantial powers with strength and effectiveness. The President, under the Constitution, is the chief executive of the United States.

Unfortunately, it has become painfully clear that this administration has no real economic program.

Harry Truman, as we all know, used to say "The buck stops here." Under Richard Nixon, the buck of responsibility seems to have eroded as fast as the dollar of spending power. The value of both has rapidly evaporated over the past 5 years and with the loss, so have the hopes and aspirations of millions of Americans for a good home, a good life, and the pursuit of happiness.

It is certainly proper to ask what the Congress has done to meet this crisis in leadership in the economic field.

In contrast to the administration, the Congress has examined itself, found itself wanting, and moved to correct some deficiencies in its handling of budgetary matters.

The Congressional Budget Reform Act has become law and will provide the tools that Congress needs to better determine national priorities and relate spending to revenue. The Congress took the initiative and is working on the establishment of a National Commission on Supplies and Shortages. We are working on legislation to stop the big bank holding companies from further draining the mortgage market of funds.

The House has passed and sent to the Senate a bill to extend the Public Works and Economic Development Act of 1965, which will continue to provide job development aid to areas of high unemployment. Social security benefits have been increased to ease the effect of inflation on the elderly and disabled. Congress is in the process of authorizing the Joint Economic Committee to do an emergency

study of the inflation problem and to recommend legislation.

The Democratic steering and policy committee has been meeting with some of the Nation's leading economists to review the problem and attempt to arrive at a consensus in the Congress on policies that need to be implemented now. The Democratic steering committee has received many significant recommendations from the panel of economists. I hope the Members of the House and the legislative committees—and the administration—will study these proposals carefully, as will the steering committee, for they may well represent some of the long-term solutions to the economic problems which are now so pressing.

The economists have recommended such measures as tax changes, better support for the unemployed, development of the new budget system for long-range purposes, revision in monetary and credit policies, issuance of Government purchasing power bonds, and measures to break supply bottlenecks.

Thus, the Congress is moving to fill the vacuum in leadership with positive legislative programs designed to alleviate some of the conditions we face—to restore balance to our tax and spending programs, to protect the consumer and worker, and to restore stability.

But Congress legislates; the President must administer. He must lead and use the programs provided by the Congress. The President has neither administered nor led, and he is not now doing so. The responsibility buck just keeps getting passed around, through a succession of four Treasury Secretaries, six wage and price controllers, four Chairmen of the Council of Economic Advisers, and untold numbers of Presidential counselors on the economy.

The American people will soon have an opportunity to make clear to the President their strong disapproval of the administration's economic policies and its failure to lead the fight to bring inflation under control. And, of course, a sound economy in the United States is far more important than a party victory for either party.

Each administration, when it enters office, establishes its own priorities. We have seen Mr. Nixon's, and they must be rejected.

We could have a strong, growing economy with full employment and low inflation. After all, we have controlled inflation in the past, under circumstances far more difficult than today's. But instead we are offered recession and unemployment as the cure for inflation.

Housing and food and public transportation in the cities could and should be plentiful. But instead, the President has offered America a depression in the housing industry, food prices that are out of sight, and vetoes of mass transit bills.

These conditions cannot—and need not—continue. It is time begin the long process of restoring confidence in our economy and in Government's ability to deal with our economic problems. Congress, under its Democratic leadership, has begun that process where it must begin: by examining its own budget procedures to root out the weaknesses and strengthen the tools needed to do the job.

It is time the administration acted to restore credibility in its economic leadership.

The way to do this, it seems to me, is to join with the Congress in rejecting a policy which says we must make our economy worse in order to make it better.

The American economy is fundamentally strong. The American people have always demonstrated their willingness to do what is necessary to meet any challenge. The economy, through its inherent strength, can survive the shocks of mismanagement of any administration over the short term. But what we cannot survive, over the long term, is the administration's notion that the only way to dampen the raging fires of inflation is intentionally to adopt policies that will mean fewer jobs and economic stagnation.

The Congress is not infallible, and we are willing to listen to the administration, but it is imperative that we soon begin to work together, using the kinds of policies now evolving in the Democratic Congress, to tackle the basic problems—to restore stability without either permitting, or encouraging, recession, tight credit and joblessness.

I now yield to the gentleman from Arkansas (Mr. MILLS).

Before doing so, I might say that the gentleman from Arkansas and I, as well as other Members who are present, have been in a 2-hour meeting with some of the great industrial leaders of our Nation, and the gentleman from Arkansas, because of his great knowledge of the American economy and its problems was a very important part of that meeting.

I say that also of the two gentleman from Texas and the gentleman from Mississippi, who were also present there, as well as the gentleman from Wisconsin (Mr. REUSS) who made a very outstanding statement.

Mr. Speaker, I am now pleased to yield to the distinguished chairman of the Committee on Ways and Means, the gentleman from Arkansas (Mr. MILLS).

Mr. MILLS. Mr. Speaker, I appreciate the gentleman from Oklahoma yielding to me so that I can express my deep appreciation to the gentleman, as Speaker of the House of Representatives, for taking notice of what our situation is today.

I do not want to alarm anyone. I do not want to add to what I think is a spirit bordering upon panic by our American people. I do know that they are looking to us to solve these problems.

I do know that the Members of the Congress have the guts—if I may use that word—to solve those problems when they are aware of the way to solve them. Through the proper leadership advised by labor, by business, with Governors, with mayors, and others, in seeking their advice, we can tell what those problems are. I think that the gentleman in the well, our distinguished Speaker, is showing that degree of leadership now, as he has in the past, that those of us who voted for him as Speaker knew he possessed in the very beginning. I congratulate the gentleman.

Mr. ALBERT. I thank the gentleman from Arkansas. I appreciate his kind words.

The knowledge possessed by the gentleman from Arkansas on the subject of our economy is a matter of nationwide recognition.

I now yield to the distinguished dean of the House, the gentleman from Texas, who has been a student of tight money and its consequences since before most of us were old enough to run for government.

Mr. PATMAN. I thank the Speaker for yielding.

Mr. Speaker, I congratulate the Speaker on the wonderful talk he has just made today. We were having testimony from Federal Reserve Bank presidents on the very questions he has discussed. One of the most knowledgeable and intelligent of the Federal Reserve Bank presidents before our committee was asked the direct question:

Would you favor low interest or high interest to help the Nation as a whole, and all of the people, rich or poor?

He said:

The answer is simple. It would be low interest rates. That way people can be helped, and we can build a country in time of peace, or at any time, but we cannot build it with high interest rates.

Mr. Speaker, I now invite the attention of my colleagues to the fact that to small business people this prime rate means nothing except a ceiling for the big man, General Motors, General Electric, and then when the little man comes in, he has to pay about 4 or 5 or 6 percent higher than the prime rate. The rest of us do not get the prime rate. Small business people must pay at least 15 percent even though their loan gets up to half a million dollars or a million dollars. They have to leave 15 percent there that the bank gets free use of, and they get no benefit from it at all.

It is disgraceful, really, how we are suffering a depression right now in housing. We are in a real depression, and it is because of high interest rates. In order for a person to buy a $20,000 home, he must agree to pay for 3 homes, $60,000; $40,000 will be in interest, and he will get title to one home. We are in this depression in housing, and the only way we can come out of it is to get these interest rates adjusted in some way. It is possible.

The Federal Reserve has made a terrible mistake for years in trying to stop inflation by making interest rates higher. That is just like trying to put out a fire in one's home by using gasoline instead of water. It would be just as unwise as that.

We must do something, and the Speaker has given us a good talk on what we should do and what we should consider. I think we all ought to join the Speaker of the House and do our very best to help stop this depression.

Who caused this inflation? A Federal Reserve administration spokesman said the people are responsible, which was such a ridiculous and untrue statement

when obviously the cause was the Federal Reserve.

The Federal Reserve has raised interest rates without reason, making them excessive, exorbitant, and usurious.

The Federal Reserve is strangling the economy and is now attempting to put into effect policies that will cause millions of our poor people to be deprived of adequate and proper food.

Is a starvation diet in the offing for millions of our poverty-stricken people?

High interest is one of the principal causes of poverty, ignorance, disease, and crime among four of the greatest evils.

Mr. ALBERT. I thank the gentleman from Texas.

The leadership wants all to know that the talent of the House, the specialized talent, is in its great committees, and we have to rely on the committees, and their cooperation, their leadership, and their working together, hopefully, with the White House, so that we can do something.

I now yield to the distinguished chairman of the Committee on Appropriations, the gentleman from Texas (Mr. MAHON).

Mr. MAHON. Mr. Speaker, I want to commend the Speaker for using this time to discuss the very dangerous and critical situation that confronts us with respect to the economy and with respect to inflation.

As was pointed out so well in the meeting to which the Speaker alluded, one of the major factors involved in the present situation is a loss of confidence in regard to the economy. People realize their money has been devalued as a result of inflation already, and they fear and believe that it will be devalued even more in the future.

It seems to me that, as was said in the meeting on the economy we need the cooperation of Congress, the cooperation of the Executive, the cooperation of business and the cooperation of labor. We are all in the same boat together, and I think that the Speaker has demonstrated, not only in this talk today, but otherwise, his support of a program of cooperation in the overall best interests of the country in solving the very serious economic and fiscal problems before us.

It is best for the country and it is the best politics, so we need, as I say, to work together.

Now, with respect to cutting the President's budget, in the appropriation bills this year, as we did last year and the last 29 years before that in appropriation bills, when the Congress has concluded its work we will be below the President's budget in those appropriation bills. But, of course, in nonappropriation bills and back-door spending and otherwise we will not necessarily be below the President's budget. But as the chairman of the Committee on Appropriations I want to assure the Speaker of our cooperation and our desire to hold the line within reason.

I think if the country decides we really mean business and want to be responsible in the face of the situation which confronts us, there will be renewed hope, and renewed hope is what this country very much needs if we are to come out of this crisis which confronts us.

Mr. ALBERT. I thank the gentleman from Texas for his fine contribution.

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

Mr. ALBERT. I yield to the distinguished gentleman from New York.

Mr. CONABLE. I thank the distinguished Speaker for yielding.

Mr. Speaker, I would like to compliment the gentleman on his statement of the difficulties facing the Congress at this time. While it is quite usual at this time in an election year to come forward and describe the economy in the darkest hues, I will acknowledge the state of the economy as one to give us all concern, and I do not think for a minute that the Speaker is expressing the typical election year alarm about the state of the economy.

I would like to note the statement that the Speaker will encourage the Members of this Congress to consider positive suggestions emanating from the executive branch.

I note also his statement that the Democratic Party will come forth with positive suggestions, presumably this year, to address some of the problems that are bespoken here.

I have, I think, no authority for my side but we certainly will consider such proposals in as positive a frame of mind as the Democratic majority expresses with respect to Presidential leadership if congressional suggestions are made.

I am one of those who would agree with the Speaker completely that this Congress must participate in the solution of our economic problems and to that extent I will certainly do my utmost to cooperate.

I am, of course, concerned as we all are about the level of interest rates in this country, and I am sure the Speaker is not suggesting expansion of the money supply were that even within our power, such as is perhaps implicit in that of the statement of the distinguished gentleman from Texas. We have had some expansion of the money supply right down to the present time. The Federal Reserve Board has not increased the credit reserve of banks so I am sure there is no strong desire for expansion of credit to further inflict us all and concern us all. If there is any suggestion of that sort I would like to know it at this time.

It does seem to me we could get into very serious trouble were we to try to take direct steps to expand the supply of money at this stage.

Mr. ALBERT. The distinguished gentleman from Wisconsin is a much better authority on that subject than I. I tried just to outline the problem and not to give all the solutions. As I told the group today, we are trying to search for the answers because the American people want answers. There is a psychological wave that is similar to the 1920's wave that struck the country, and it is too bad. That has been proven by polls taken by economic poll takers and psychologists. We ought to try to head it off.

Mr. CONABLE. One last point, Mr. Speaker, if the distinguished Speaker will yield further. I think it does not avail us to blame the President for an expansion of the budget when we have directed an expansion of the budget over the years recently. It is, of course, incumbent on the Executive, as the Speaker has pointed out, to carry out the law. There is no question about the tremendous growth of Government implicit in the figures which show that in 1964 for the first time in this country's history we passed $100 billion; in 1971 we passed $200 billion and it is being requested, and I hope we can find some way to avoid it, that in fiscal year 1975 we will pass $300 billion.

This would not be possible, Mr. Speaker, had we not enacted the programs which have fueled the tremendous budget growth.

I think it is rather interesting to find people who have participated in this willingly and affirmatively sought to go even beyond the final figures in blaming on the President the carrying out of our directives in this respect.

Mr. ALBERT. The President, of course, is not restricted by the submission of his budget. He has complete authority in that direction. That is in the law. But we have cut the budget for over 30 years, as the gentleman from Texas has said.

Mr. CONABLE. Well, this is a fairly standard debate. This would not be possible if Congress was not a willing participant generally.

Mr. ALBERT. I thank the gentleman for his contribution.

Mr. Speaker, I yield to the gentleman from Wisconsin (Mr. REUSS).

Mr. REUSS. Mr. Speaker, the Member from Oklahoma is doing an extraordinary and responsible thing in taking the well this afternoon to speak in measured tones of the very serious economic problem which confronts us, in a word, boiling inflation and a recurrent recession at one and the same time.

I think it is worthy of the highest attention of our leadership, which it is getting, to know if ever there was a time in the history of our country when we do not need recession or inflation, it is today. It is not necessary to rehearse the melancholy business which now absorbs the House Committee on the Judiciary. It is not appropriate to recall the fact that all the polls show there is increasing public disillusion with people in positions of authority throughout the Nation. One need not pause too long over the fact that once again voices of extremism at both extremes are being heard in the land. All these things make it so tremendously important that when the American people, as it does, hungers and thirsts for leadership in economic matters, it is now beginning to get it.

May I say to the gentleman from New York (Mr. CONABLE) that I, and, I am sure, other people on this side of the aisle, appreciate the cooperative and conciliatory tone he just used. I can assure him there is no disposition on this side of the aisle, either directly or indirectly, to induce the Federal Reserve System to crank out increments to the money supply. Indeed, many of us are

critical of the Federal Reserve in the last few years for having overextended the money supply; but at the same time we do not regard with equanimity the situation where this week the great utility industry of this country was unable to get necessary capital to modernize itself. The greatest city of the land had to withdraw a request for public financing, where that backbone of American industry, the small innovative business that has always been relied on to produce new types of equipment that had the productivity when the small innovative business simply cannot get the capital it needs to, on the one hand, and then, at the same time, we find enormous gobs of credit being channeled and focused on things that are inflationary and bidding up the price of inventory and bidding up the price of raw materials and bidding up the price of real estate.

So that I think men of good will have to realize that we have not yet realized perfection in our monetary system, and we must seek and strive for new ways of channeling credit where it will help combat inflation and make a more progressive economy, and away from actions where it does just the opposite.

So, we would hope, Mr. Speaker, that in the words of Webster, "we may perform something worthy to be remembered under your leadership," and I welcome it.

Mr. ALBERT. I thank the gentleman for his contribution and for the hard work he has done in this field.

I yield to the distinguished gentleman from Mississippi (Mr. WHITTEN).

Mr. WHITTEN. Mr. Speaker, I certainly wish to congratulate you for having taken the time to call this to the attention of the country. As has been said, public opinion, the confidence of the people, means so very much. The leadership of the Speaker, his statement here today and his earlier advocacy and the eventual passage of the Budget Control Act, and many other things should add a great deal of confidence to the American people.

I would make this one comment, that within the Congress we have it within our power to give thought to this—and there will be differences of opinion—but it appears to me, as an amateur economist, that we do have a shortage of capital which leads to the inflation. Recognizing the problem is the first thing, and a solution is the second thing.

I think that we, as Members of Congress, should join with the Speaker in redirecting our attention to productive types of activities to the degree that we can so as to increase the capital, which, after all, is in short supply.

Now, and again, I get letters saying, "Fix the interest rate. Our capital does not bring what it is worth," whatever that is, whatever the law permits it to reach.

Mr. Speaker, I wish again to commend you and assure you of my efforts in line with yours and others of our leadership to redirect our activities in the areas that are most productive, and again commend you. I think the country will take renewed confidence in the fact that you have taken the floor today.

Mr. ALBERT. I thank the gentleman from Mississippi.

I yield to the gentleman from Ohio (Mr. BROWN).

Mr. BROWN of Ohio. Mr. Speaker, I appreciate your yielding to me, and I share your concern about the economy. I think all of us do share concern about the economy at all times. I disagree a little bit with the gentleman from Wisconsin in that I am not sure that there is any time that it is appropriate that we have a recession or inflation at the levels we seem to be faced with at the moment.

However, I would say again that I cannot agree that the disillusionment with reference to the institutions of our society excludes in any way the Congress. I think that disillusionment is pretty widespread in a lot of our institutions.

Mr. ALBERT. May I say to the gentleman from Ohio that I said in a talk earlier today that I think there is some disillusionment with all the major institutions of our society.

Mr. BROWN of Ohio. I feel that is absolutely correct, Mr. Speaker, and unfortunately for this body, that includes the Congress. Perhaps the reason for that is because it was the Congress which encouraged the undertaking of wage and price controls, which seem not to have worked in retrospect. Therefore, I find some problem with the suggestion that we now ration the interest, or rather the money for expansion, and try to provide some specific control over interest.

I think perhaps we had better follow the advice—having just listened to a little bit of this colloquy—which the gentleman from Mississippi (Mr. WHITTEN) suggests, and that is that we should try to get back into more productive activities encouraged by the Government and get away from some of the unproductive activities.

One of the unproductive activities, it seems to me, is to pass so many programs and guarantee so many worthwhile needs of our society with Federal dollars—we now guarantee literally anything we can think of which people want to undertake in this country. When we have that kind of guarantee and those insurances, and then the expenditures that leave us with the deficits, there we wind up with the Federal Government denying the right of free choice to the average American citizen.

This is because the Government takes the money available for expansion for its own purposes, and individual citizens or individual businesses cannot get that capital that they need so desperately to, say, build a home or even buy a farm or expand an industry to meet shortages.

Industry is now competing with the monopoly control of money that the Federal Government now has.

Therefore, we have a real problem on our hands as long as we approach the problems of our society from the standpoint that the Federal Government ought to come first and we ought to go ahead with these deficit measures.

Mr. ALBERT. May I say to the gentleman that I realize that there is even that danger, but sometimes one who has occupied a position of leadership should try to correct the situation. I do not think we should play dead. I think we should undertake to try to do something at this time, and if we are making any gain, let us hope that it will be more than just an effort, but that it will amount to something worthwhile.

Mr. BROWN of Ohio. Just as a concluding comment, Mr. Speaker, I would join with you in hoping we can find the leadership we need to get the Government under some degree of control. I would say, frankly, to you, that I think that leadership has not been provided by the Congress. I hope it can be provided by somebody. I think it might be provided, perhaps, by the President. It ought to spring from the people, to some extent. Without the people, we cannot provide leadership.

Mr. ALBERT. The gentleman may disagree with me. But I am not willing to take the misdirection of the economy out on the hides of the poorest people in the country, the middle-income and lower-income people and neither will the majority on my side of the aisle, which will insist that we move forward to bring the economy under control in a way that will benefit all Americans.

I yield to the gentleman from Missouri, the distinguished member of the Joint Economic Committee and the Committee on Rules.

Mr. BOLLING. Mr. Speaker, I would like to join the others in congratulating you for the statement you have made.

It seems to me that there is enough blame to go around. It seems to me very clear that the Congress has some responsibility for the situation we have now, and it is absolutely impossible to say that the Executive does not have some responsibility, because everybody knows that the Executive can act more quickly and more effectively with regard to impact on the economy than the Congress ever can.

I think that the Speaker's willingness to undertake a discussion of this sort is extremely important because this is the same Speaker who has taken the initiative in all the efforts to make the Congress itself work more effectively organizationally.

I had the privilege, with the Speaker and others, of being present at the White House when the Budget and Impoundment Control Act which this Congress passed virtually unanimously was signed the other day.

We have before us a great controversy in an attempt to make the House work more efficiently, but what we need very badly is an understanding that no particular party's policy can be implemented with regard to the economy and that there must be some kind of understanding among us that the urgency of the situation requires a common approach.

I have understood what the Speaker said. It was in effect that we should try to seek a common approach to the solution of the problem, but we all have the responsibility, the executive and the legislative alike.

We should all get to the business of coming up with a common policy that could be put into effect, one that would

solve these problems which affect all of us, whether we be rich or poor, but which lay more heavily on the poorest people of the land.

I congratulate the Speaker.

Mr. ALBERT. Mr. Speaker, the gentleman has said it better than I.

Mr. RHODES. Mr. Speaker, will the distinguished Speaker yield?

Mr. ALBERT. I yield to the distinguished minority leader.

Mr. RHODES. Mr. Speaker, I thank the Speaker for yielding.

I wish to compliment the Speaker for taking this time and giving the Members of the House an occasion to debate a subject which is certainly timely and certainly vital to all our people. It will be my purpose, I think next week, or perhaps at some time in the near future, to take a similar special order in the hope that we can do this periodically.

Mr. ALBERT. Mr. Speaker, I think the gentleman should take a special order on the economy. It has reached the point where the entire Congress is involved, not just one party and not just a few of its committees.

Mr. RHODES. Mr. Speaker, I certainly agree with the Speaker.

I would like to explore with my distinguished friend just one point that has been brought up. The subject is much too broad to go into all of its facets, but as I gather, every Member on this floor will agree with this: There may be those Members who do not agree, but I believe almost every Member agrees that one of the things that would be beneficial to the economy would be a reduction in Federal spending just as rapidly as possible, with the hope that getting the Federal Government out of the money market might have some salutary effect on the money market, so that the interest rates might go down and we could then have the private sector pick up whatever slack there might be.

I certainly agree with this proposition. I think the Congress is in somewhat of an ambivalent position, however.

My distinguished friend, the gentleman from Missouri (Mr. BOLLING), just mentioned the Budget and Impoundment Act. The last part of that title, I think, is rather interesting, because this Congress has acted to inhibit the Executive in impounding funds.

Obviously one of the ways—there are probably only two ways—that this Congress or the Government could cut its spending would be by an impoundment of funds by the Executive, funds which have already been appropriated. Yet this Congress has acted to inhibit the President in his authority to do that.

The other way, Mr. Speaker, I think, would be if we were ourselves to make the type of study which would be required to set a spending ceiling which would be adequate, which would be a ceiling we feel is best for the economy and which we could live with.

Mr. Speaker, that brings me to a very concrete suggestion. The legislation which the gentleman from Missouri mentioned will not become operative until, I believe, the fiscal year 1976 or perhaps 1977. I might suggest the possibility that the committee which is called for, the Committee on the Budget, might be activated earlier than that time, and that this committee might actually meet before that time. Although it might not have the authority to impose a ceiling, it certainly could do the studies which would be necessary to determine what kind of a ceiling would be proper in the premises and to perhaps pass legislation in imposing this ceiling and directing the President to impound or preserve or do whatever is necessary with the funds already appropriated in order to allow the Government to live within that ceiling.

Mr. Speaker, I very seriously propose that as a possible answer.

Mr. ALBERT. Mr. Speaker, I thank the gentleman. I appreciate the gentleman's statement.

Mr. MOSS. Mr. Speaker, will the distinguished Speaker yield?

Mr. ALBERT. I yield to the gentleman from California.

Mr. MOSS. Mr. Speaker, I thank the distinguished Speaker for yielding.

I wish to compliment the Speaker on taking this time. I think it is critical to the underlying problem as I see it. We are dealing with an admittedly very complex situation.

However, at the moment we have a loss of confidence. That fact becomes evident in every issue of every financial journal in this Nation, whether it is in the listing of securities, the listing of bonds, the proposals for new underwritings, or the inability to raise capital. And now we have the matter of competition.

Mr. Speaker, I recall 41 years ago the magic of a President being able to say in a few words those things which brought about a feeling of renewed confidence.

I think this is what we expect of the President in a moment approaching a crisis, as we move now to a—well, I do not characterize it, but the front page of the paper this evening says a depression, by any classical definition, is here.

Mr. ALBERT. A recession is here.

Mr. MOSS. A recession is here.

Mr. ALBERT. A recession is here, according to the standard definitions.

Mr. MOSS. And we have a responsibility to those whose savings are in the bonds and the securities of some of our great utilities, prudent men and women who put money aside and did not want to look to Government, today find themselves without income. I think this is a first step in bringing about some kind of a renewal of confidence.

Mr. ALBERT. I yield to my friend, the gentleman from Washington (Mr. ADAMS).

Mr. ADAMS. Mr. Speaker, I want to compliment our distinguished Speaker, the gentleman from Oklahoma (Mr. ALBERT) for taking this special order, and particularly for the work that gentleman has done along with the gentleman from Wisconsin and myself, in bringing proposals to the Steering Committee. I will later today put in remarks in answer to the allegations of the credit question posed by the gentleman from New York, and to state that many of us are ready to certainly rethink our thinking in terms of balancing the budget, but we want to also have control over the so-called passthrough theory that is making interest rates go up. I understand the interest rate market is not a free market.

Again I want to compliment our distinguished Speaker, and I hope that the minority leader, the gentleman from Arizona (Mr. RHODES) does what he says so that we can have a series of these discussions.

Mr. ALBERT. Mr. Speaker, I thank the gentleman.

I yield now to my longtime friend and classmate, the gentleman from Tennessee (Mr. EVINS).

Mr. EVINS of Tennessee. Mr. Speaker, I have listened with great interest to the entire discussion on this subject, because it is a matter with which the entire Nation is concerned.

As I see it, it is a matter of high interest rates. A policy of high interest rates, coupled with low production and high unemployment is not a solution to the inflationary problem.

I asked Dr. Burns, when he came before our committee, whether he would recommend the expansion of public works for this Nation as a partial solution to our economic ills. He said no, public works are too slow. He said what we need, and what is the stated policy of this administration, is more unemployment compensation, longer payments, and more checks. He said that checks can be issued much faster, and what we need is a much faster solution.

I do not agree with that policy.

I think our distinguished Speaker, the gentleman from Oklahoma (Mr. ALBERT) is to be commended for taking this special order so as to bring about an examination of the economy of our Nation.

Mr. ALBERT. I thank my colleague, the gentleman from Tennessee.

Mr. Speaker, I now yield to my friend and colleague, the gentleman from Oregon (Mr. ULLMAN).

Mr. ULLMAN. Mr. Speaker, I want to congratulate our Speaker, the gentleman from Oklahoma (Mr. ALBERT) for taking this special order so as to begin this dialog. The country is in deep trouble, and I believe we would all have to state that we know this. The country is looking to the Congress for leadership. My judgment is that once we establish a format of policy that the Members of this Congress do have the courage to do the things that need to be done.

My judgment is that the American people are willing to tighten their belts and do the things that need to be done. The only thing we need is a proper format.

We have made a big step in the right direction by establishing congressional budgetary control, and I commend all of the Members of the House on this. Now we can implement that, but that will not solve all of the problems. We must find a better economic controlling mechanism so that we can take advantage of this in all of our committees.

This is a crisis.

Again I commend the gentleman from Oklahoma for taking the initiative of beginning this dialog.

Mr. ALBERT. I appreciate what the

gentleman has said, and welcome his contributions.

We are finding that the leading economists in the Nation, the most prominent businessmen in the Nation, as well as representatives of all segments of our economy, are ready to talk to us, because they are all concerned, whether they are Republicans, Democrats, or independents.

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

Mr. ALBERT. I am happy to yield to the gentleman from Connecticut.

Mr. McKINNEY. Mr. Speaker, I compliment the gentleman from Oklahoma (Mr. ALBERT) on taking this special order.

I would suggest that the Nation is crying out for one thing when you have inflation with a recession, and that is they are crying out for leadership.

I think, Mr. Speaker, they are crying out for a Congress that goes to the question of their problems. I think they are crying out for a Congress that is willing to look at the question of the tax problems, the question of our inflation problem, and the question of our transportation problems.

I think, Mr. Speaker, that you could lead a Congress that would go down in history if it would stay and do a job, and if it would be frank, if it would bite the bullet, and if it would go to the cause of the things that disturb people so much, because they have seen we politicians of this country become far too much politicians, and not the leaders that the forebears who started this country were. I think they have seen us far too often put the patch, the band-aid, on the sore without going to the cause of the infection.

Mr. Speaker, if we can do this in these times, one thing will happen. If Congress stays and works at its job instead of turning into a political morass, the people can have faith that they have leaders. I think this is what they are looking for because, Mr. Speaker, in all honesty they think they see them, and I think they desperately need them.

Right now, today, I look for the Winston Churchills, the Harry Trumans, even the Franklin Delano Roosevelts—the General Eisenhowers—who could inspire this Nation into biting the bullet for the task ahead of it.

Mr. MATSUNAGA. Mr. Speaker, I wish to compliment the gentleman from Oklahoma, the distinguished Speaker of the House, for the leadership he has assumed in seeking a solution to the economic morass in which we find ourselves as a nation. The complete failure on the part of the executive branch to give some indication even as to its recognition of the seriousness of the trouble in which our economy is, has led to a loss of confidence among our business leaders in the present administration's ability to find a solution. There has been a vacuum in national leadership, and as a consequence a psychology of fear for our country's future has developed among our people. As a deeply concerned Member of this House, I have, as the Speaker knows, expressed my concern to him in private. I am delighted that he has taken the initiative to fill that vacuum of leadership. This fact alone will raise new hope among all Americans and restore faith in our Government. I congratulate the distinguished Speaker.

Mr. ALBERT. Mr. Speaker, I yield back the balance of my time.

Mr. BENNETT. Mr. Speaker, I congratulate the leadership of the Democratic party in Congress, and particularly the Speaker of the House, for bringing into focus the most important domestic issue of our times—inflation.

Our currency is no longer predicated on gold or silver. There is a serious question as to whether there is enough of these materials to meet the needs for such a guarantee of currency. There is however, another value that can bolster the dollar and that is sweat, or sacrifice in some form.

Our National Government for many reasons has in the immediate past appropriated the funds needed for many worthy programs without regard to the money availability, the tax resources. This course of action satisfies the immediate needs but makes the value of the dollar decrease in actual value—in my opinion the chief source of inflation. Admittedly there are other inflationary pressures but this is th' most powerful inflationary force.

There is no great pressure on Congress to increase taxes. Legislation is pending that would add some tax dollars to the Treasury but in modest amounts. The prospect for greatly increased taxes are not with us. The only other way to bring outgo of expenditures in line with income is to make cuts in expenditures. To accomplish this in the face of mounting demands on Congressmen to increase existing programs and to establish new expensive programs, such as a broad national health care program, obviously requires not only political courage by Congressmen but also some degree of restraint by congressional constituents.

When Congress enacted the budgetary reform legislation just recently signed into law by the President, it offered a procedural way for Congress to exert a greater influence on the budget and on priorities. This law will also make budgetary actions by Congress, and particular Congressmen, more visible. This can be very helpful in the fight against inflation but only if each Congressman will "bite the bullet" and vote with fiscal responsibility in mind rather than just approving every request for additional Federal appropriations for worthy objectives. The best way the American people can help fight inflation is to encourage Congressmen to exert fiscal restraint and make this point of view felt at the ballot box.

The day of dreaming that somehow the Government can spend large sums of money without taking it out of the hides of taxpayers, rich and poor, has gone. Inflation hits the little fellow the worst. There is no way to evade inflation if there is not to be some sweat, some sacrifice, behind the expenditures. There is no mystery to money. It has no value without sweat.

Mr. Speaker, I insert at this point in the RECORD an excellent editorial, "The Roots of Inflation," from the July 9 edition of the Florida Times Union; and another from the July edition of the same paper, "Determination Is Needed Too," as follows:

[From the Florida Times-Union, July 9, 1974]

THE ROOTS OF INFLATION

The finger of blame for most of the spiralling inflation of the past few years is gradually settling on root causes including government printing presses and government deficits.

Some say this explanation is too simplistic and they have a talking point. There have been severe economic dislocations caused by fuel and raw materials shortages plus other, less apparent, factors.

But the complexity of the situation does not drown out the sound of the presses in the industrialized nations of the world, printing far above normal supplies of money and thus cheapening the stock on hand.

Sen. Carl Curtis (R-Neb.) said on ABC-TV's Issues and Answers program Sunday that:

"I think it is absolutely necessary for the United States to put its financial house in order. By that I mean a return to a balanced budget now if we are going to halt inflation. We cannot go on increasing the debt, engaging in deficit financing without igniting all the other forces of inflation."

And a roundup in the Christian Science Monitor on the causes of inflation, written by David R. Francis, indicates what government response—not only in the United States but in other nations as well—has been to the deficit financing.

"The United States has had the highest rate of growth in the money supply since the end of World War II," Prof. David I. Meiselman, economist at Virginia Polytechnic Institute said.

During 1972 and 1973 the money supply in the U.S. grew about eight per cent, the article notes, about "twice as fast as what many economists regard as normal."

And in the nine major industrial countries outside the Communist bloc, the supply increased by an astounding 60 per cent in two and one-half years.

There are signs of a slacking off, both overseas and in the United States in the rate of money supply growth but the other side of the coin—the huge U.S. deficits—will continue unless Congress shows more restraint.

The adjustment will be painful but it must be made because the consequences of galloping inflation, spurred on by increasing government debt and an artifically created money supply, will be unbearable.

[From the Florida Times-Union, July 1974]

DETERMINATION IS NEEDED TOO

Back in his 1970 State of the Union message President Nixon said:

"In the decade of the Sixties the federal government spent $57 billion more than it took in in taxes.

"In that same decade the American people paid the bill for that deficit in price increases which raised the cost of living for the average family of four by $200 a month.

"Millions of Americans are forced to go into debt today because the federal government decided to go into debt yesterday. . . ."

Sound thinking. It would be hard for anyone with even elemental knowledge of economics to dispute the President's words.

But, what happened?

In the next three fiscal years after the President said these words Treasury Department figures show budget deficits of $22 billion, $23 billion and $12 billion—for a total (by coincidence) of $57 billion.

In other words, in the three years after President Nixon spoke those sound words, the federal government's unsound spending practices racked up in three years the same amount of deficit it took the previous decade to accomplish.

And the same "American people" who "paid

the bill for that deficit" are still paying the increases, today.

The point in this backwards look, however, is not to bewail spilled milk (not at the present price of milk). Rather, this discrepancy between bespoken intentions and subsequent actions offers perspective upon a current effort—this time by Congress—to fight inflation by putting clamps on federal spending.

For, in fact, much of the blame for federal overspending must be given Congress; it, not the President, passes appropriation bills. Indeed, had it not been for several presidential vetoes, and impoundments, the deficit would have been much higher.

Congress, at long last, has passed a law designed to give Congress an overview of, and tighter controls upon, spending.

The plan will work this way:

A budget committee would be created in each house backed up by a congressional budget office with specialized research staff. These committees would be responsible for presenting to Congress by May 15 of each year a proposed ceiling on total spending, plus a breakdown by major categories.

After the President presents his spending proposals, the various separate appropriation bills (in the various categories) would be (tentatively) passed, this to be completed by Sept. 25.

Congress would then adopt a second (final) budget resolution either (a) cutting the various appropriations back to meet the limit or (b) raising the ceiling. This theoretically would be done by the beginning of the new fiscal year Oct. 1 (changed from July 1).

In theory, and as a matter of organization, this is a vast improvement over the former plan (or rather lack of plan) wherein Congress passed various appropriations without knowing or seemingly caring what the total was becoming.

But if it is to achieve the desired purpose, the new machinery must be matched by new determination. Without it, all that could result is that the Sep. 25 "fiscal showdown" date would simply result in the budget ceiling being pushed enough into the red to support the same old spending-as-usual.

Good intentions, on the part of Congress, aren't going to be enough, just as good intentions in a State of the Union message weren't enough.

It is going to take an unprecedented effort at budgetary restraint, at making hard choices among desirable programs, of trimming all fat and perhaps a little lean as well in necessary programs, to reverse a generation of deficit spending.

THE STRENGTHS AND SHORTCOMINGS OF OUR CHILD WELFARE PROGRAM IN VIETNAM

The SPEAKER pro tempore. (Mr. McFALL). Under a previous order of the House, the gentleman from Wisconsin (Mr. STEIGER) is recognized for 60 minutes.

Mr. STEIGER of Wisconsin. Mr. Speaker, in yesterday's CONGRESSIONAL RECORD, I provided for consideration of my colleagues my report on the visit to Saigon I made on April 13. In that report I discussed what I feel are the strengths and shortcomings of our child welfare program in Vietnam and projected what I see as its significance for the future.

Today I would like to share with you letters I have received from voluntary agency representatives working with these children. Their insights are, I think, valuable. Also of interest are letters from AID's associate director for relief and rehabilitation, Mr. E. G. Ruoff, and from Mr. Stanley B. Thomas, Jr., of the Department of Health, Education, and Welfare, as well as an adoption information sheet from the U.S. Embassy in Saigon.

Those items follow:

WORLD REHABILITATION FUND, INC.,
VIETNAM PROJECT,
Saigon, Vietnam, May 22, 1974.

Hon. WILLIAM A. STEIGER,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN STEIGER: Your interest in the child welfare program for Viet Nam is certainly appreciated. I do hope your mid April visit here was profitable.

In an attempt to answer the questions you raise in your May 6th letter to me, I will attempt to provide answers in the chronological order that the questions are presented.

1. Until such time as World Rehabilitation Fund receives the allocated grant for handicapped children and can begin full operations, it is difficult to accurately project future capabilities. I believe that with the rehabilitation services that World Rehabilitation Fund has established here in the past years, our capability for dealing with the physically disabled children is quite adequate.

2. I understand that all proposals must be approved by the Ministry of Social Welfare, and possibly in our case the Ministry of Health, before the proposal may be implemented. Since the child welfare package has just been implemented to a few vol agencies thus far, I have no feed-back to use as a guideline in answering this question. I would hope that the GVN will be closely involved since the burden should be on them to assume the program in the shortest period of time possible.

3. Again, as far as this particular Child Welfare package is concerned, since the grants have just been approved recently to a few agencies, it is not fair to appraise. I must say though, that past programs have been principally focused on providing relief with little in the way of training and "tooling up" the country to provide and continue their own programs.

4. In the particular WRF (Handicapped Children) Program, about ¼ of the first year's budget is allocated for training purposes. The second year's budget should have a greater portion allocated to training.

5. I'm not qualified to answer this since it is out of my field.

6. I have been informed that, though the child welfare program is referred to as a grant, proposals must be drawn up for each activity as well as a work plan and these approved by USAID and then the GVN. In the process of drawing up proposals, I have found that USAID has scrutinized these to the point of questioning my professional decisions. I feel that if there is going to be a constant battle, that it defeats the purpose of a grant and that USAID should keep the funds and attempt to execute the program on their own rather than the program getting mired down in petty administrative decisions. I was of the impression that a grant was given to an organization because the organization had the experience or some unique expertise to execute a project most expeditiously and effectively. Unless the vol ags are given more free rein, I don't think the child welfare program will be particularly successful.

7. I think that three years should be quite sufficient. In that time, with a genuine interest on the part of the Vietnamese, any program should be self sufficient. If it isn't, it would signify a lack of interest in one party or the other and no matter how much more time or money is expended, there would be very little improvement.

I hope the above will prove to be of help to you.

Sincerely yours,

ROBERT B. WILSON.

INTERNATIONAL RESCUE COMMITTEE, INC.,
Saigon, South Vietnam, May 22, 1974.

Hon. WILLIAM A. STEIGER,
House of Representatives, Longworth Office Building, Washington, D.C.

DEAR CONGRESSMAN STEIGER: This is in reply to your letter of May 6th, in which you posed seven questions concerning child welfare programs in Vietnam.

1. *Projection of IRC's future capability to meet the needs of children in Vietnam.*—This, of course, depends on availability of funds. Those programs supported solely by IRC, i.e., five-day care centers with a total of 425 children, and financial assistance to five Vietnamese child care activities with more than 850 children, will almost certainly be continued for an indefinite period, with the hope that all will eventually be taken over by Vietnamese private and/or public agencies. IRC's USAID funded programs, a 120-bed reception and convalescent center for children undergoing plastic and reconstructive surgery, a home nursery program and our newly established pediatric intensive care for orphans and children in adoption process depend on year to year funding. The two former programs will be phased out by the end of this year. It is hoped that the pediatric intensive care program, a part of the 7.2-million-dollar child care package, can be continued for at least three years if not longer.

2. *Role of the Government of Vietnam as relates to voluntary agency proposals.*—The Government of Vietnam is consulted by USAID on all USAID/Voluntary Agency contract proposals and "chops off" on such proposals. I get the impression that GVN concurrence is almost automatic. For non-contract programs the concurrence is even more automatic. I don't think GVN would stop any proposal unless it was completely illogical or politically very contrary to GVN policy.

3. *Overall rating of AID's child welfare program.*—A tough question. I would say that in the past AID's program, tied in with and very much dependent on the capability of the GVN, has been fair to good. I would think that the latest program, with the voluntary agencies, will be much more effective.

4. *Training of Vietnamese.*—Again, a difficult question, but I would say that much of the money and effort is directed toward training Vietnamese, not necessarily through formal training programs, but through maximum utilization of Vietnamese staff. And, in concurring on voluntary agency proposals, the GVN asks that US or TCN staffing be kept to the absolute minimum.

5. *Aid to voluntary agencies for adoptions.*—Since IRC is not involved with adoptions, I can't answer this question.

6. *Changes in AID's child welfare program.*—An even closer relationship with voluntary agencies, especially in the form of consultation and coordination in planning programs, would greatly enhance effectiveness of programs.

7. *Length of AID's program of specifically earmarking funds for child welfare programs.*—As was indicated during our meeting at the Embassy in Saigon, the need for such

support depends to a great degree on the economic situation in Vietnam. This situation is not good at present, especially in the urban areas. If it improves, i.e., unemployment drops, and prices of basic commodities stabilize, then the requirement for large child welfare programs will lessen. I would say that it would be necessary to continue to earmark funds for two to three years while maintaining the flexibility of adjusting as the situation requires.

I trust that the above information will be helpful. If I can be of any further assistance please let me know. By the way, for any future correspondence, please continue to use our APO address. Our street address will change very soon as we relocate to another building.

With grateful appreciation for your efforts in behalf of the children of Vietnam and the voluntary agencies, I am

Sincerely yours,

J. CARROLL MORRIS,
Director, IRC Vietnam.

Added Note: I have just this morning received a call from Mr. Ray Fontaine, E. G. Ruoff's deputy in USAID, to the effect that DOD is contemplating eliminating APO privileges for the voluntary agencies. Ray says that the Embassy here will try to dissuade DOD from taking such action, but we may need some help from friends such as you. If voluntary agencies were a heavy burden on the postal system, I could understand DOD's considering such action. However, we are not. And I'm sure that the DOD contractors will continue to be supported. If you can help, we would all really appreciate it.

Many thanks,

——— ———.

CATHOLIC RELIEF SERVICES,
U.S. CATHOLIC CONFERENCE,
Saigon, Vietnam, May 27, 1974.

Hon. WILLIAM A. STEIGER,
House of Representatives, Longworth Office Building, Washington, D.C.

DEAR CONGRESSMAN STEIGER: Many thanks for your letter of May 6, 1974 which represents the follow-up on your April 13th visit to Saigon. It was good seeing you again and your interest in our efforts is much appreciated.

I will respond to your questions in the order in which you have listed them:

1. It is anticipated that the areas of our involvement will continue to be in Orphanage Improvement, Child Nutrition and Nutrition Education, Prevention of Infant Abandonment and Home Nursery Programs. Programs will be in concert with the Government of Vietnam and with USAID.

2. Our basic agreement goes back to 1954 and it has proven to be a good one, elastic enough, and one which requires input and support from the Government of Vietnam. As regards the current Child Welfare programs, the host-guest relationship suggests planning and implementation coordination especially since the current appropriation has funds blocked out for the Ministries of Social Welfare and Health to engage in some programs like unto those of the voluntary agencies so that an atmosphere suggestive of partnership might be realized as well as the elimination of a possible "cornering of the market" by either the governmental or voluntary sectors. As for the possible stoppage of proposals, I feel that such would result only in the case of a program obviously in opposition to stated national goals and priorities.

3. With the demise of CORDS which was programed, at least for record purposes, for almost total "Vietnamization," the present Social Welfare Bloc of USAID as well as the Ministry of Social Welfare are aware of the fact that the ministry is lacking in certain areas and the assistance of the foreign voluntary sector is being solicited. USAID's child welfare program having gone through several refinements since last Fall seems sound and realistic. It is anticipated that cooperation/coordination involving the GVN/USAID/Vol Ags will tend to further iron-out kinks sure to be experienced.

4. Approximately 50% of the money and effort is going toward training.

5. No.

6. For the time being I feel that the present efforts should be allowed to proceed as programed. After six months an evaluation might suggest changes/modifications.

7. Four years.

With an assurance of cooperation in all matters of mutual interest, I am, with all good wishes,

Sincerely yours,

JOHN J. MCVEIGH,
Program Director.

SAIGON, VIETNAM,
June 3, 1974.

WILLIAM A. STEIGER,
Longworth Office Building, Washington, D.C.

DEAR CONGRESSMAN STEIGER: I am sorry I was not able to reply to your letter before this. Now my answers may be irrelevant.

(1) I am able to see our group only in the light of present need. I cannot project much into the future. Our group is not concerned with long range goals but with meeting the needs of a present crisis. I sincerely hope that in easing the burden of present crisis, we are freeing others to work on long range plans. Our responsibility for the long range planning, for each child, is passed on to the adoptive parents, once they receive their child. We exercise care in choosing adoptive parents, and they in turn are responsible for carrying out all our "long range plans" in the life of the individual child. We can think only in terms of individual children, rather than the "problem" as an entity in itself.

In one realm we may have some long term effect on child welfare in Vietnam. Our work with the disturbed, brain damaged and children with other handicaps not purely physical in nature. These children often cannot be placed for adoption. We already have the embryo of a special nursery for these children and we are sensitising child care workers, and the Ministry of Welfare to their needs. In this we are pioneers.

Our policy is not to compete for "business" with existing agencies, but to fill a gap where no other solution is available.

(2) The Government of Vietnam, as represented by the Ministry of Welfare is at the present moment, placing great stress on the contribution of the voluntary agencies. I have been rather dismayed to hear a Welfare official speaking of their reliance on the voluntary agencies, and on the funds contributed by these agencies and by the U.S. government and disbursed by the agencies. This confession was sad. I saw a desperation for money, so great that the Government is forced to submit to outside interference. I do not see the Vietnamese government as rejecting any serious voluntary agency proposal which would result in improvement of the welfare scene. However, I am hoping that they will not acquiesce to every scatter-brained scheme that is presented to them. I only hope they can retain enough spirit of independence, despite foreign aid, to speak their own minds. Anything else would be a tragedy both for Vietnam and America.

In fact, the Ministry of Welfare, with Dr. Bach in charge of child welfare, is begging voluntary agencies to contribute their expertise, and to help Vietnam. Dr. Bach is extremely realistic and is not carried away by false pride, or by nationalistic tendencies. She sees the huge need, and she sees their own inability to even begin to cope with the comparatively sophisticated problems of child welfare. She said quite bluntly that she would oppose any move to promote in-country adoptions at the moment, because they do not have the welfare apparatus which could provide adequate protection for the rights of the child. She expressed herself strongly in favour of over-seas adoptions as a means of easing their present child-welfare crisis.

(3) I am not qualified to rate AID's child welfare program. I have never come into contact with it before. In the past I have had contact only with other orphanages, and I have seen help given them by the military on an individual basis, or as part of an organised group effort. I know that help has been given to orphanages through AID related agencies, like CRS, but I do not feel competent to comment on the efficacy of this assistance.

(4) All the agencies are contributing in some sense towards training of Vietnamese personnel, but the ongoing efficacy of a program does not depend merely on training. It depends on a whole mentality, and it may take generations before Vietnam has the economic security which alone permits the development of a consciousness of welfare and the needs of others. The country is too unsophisticated in this sense, and the greater part of the people too poor to afford the luxury of thinking of others. For most of the people, it is a fight for their own survival. Altruism belongs to the economically secure.

(5) I can answer this only for our own agency. We do not regard the money as strictly for adoptions. We have made no extra promises that we shall accomplish more adoptions if we get any money. We have stated simply what we are doing, and what we shall continue to do whether we get any money or not. We have estimated that of the adoptions we handle this year, perhaps half will be for the U.S. and half for Europe, and some other cold countries. Money does not influence this decision. We are however, influenced by the fact that the children can leave for the U.S. in a very short time, whereas adoption to any other country means the child must spend much longer in Vietnam before departure. This is a critical factor.

(6) I would not presume to recommend any changes since I am only narrowly acquainted with the scope of the program.

(7) Three years would seem reasonable. However, the welfare money is useful only if a concurrent effort is being made to improve the economic position of Vietnam. The AID money is useful as assistance in a crisis, to help those who would not survive for the implementation of long range programs. There can be no lasting results unless the quality of life for the average person, improves remarkably. Our well fed orphan children will only grow into delinquent teenagers, and jobless adults.

These are a few personal thoughts stimulated by your questions. I only hope that some of the other agencies, with closer contact with AID, will be able to give you more specialized suggestions.

Sincerely,

ROSEMARY J. TAYLOR.

EMBASSY OF THE
UNITED STATES OF AMERICA,
May 16, 1974.

Hon. WILLIAM A. STEIGER,
House of Representatives,
Washington, D.C.

DEAR MR. STEIGER: Thank you for your letter of May 8 concerning the status of the

application for a grant from the child welfare program from Rosemary Taylor of Friends For All Children (FFAC). We have processed the application from Rosemary and have held numerous discussions with her about priority needs. We now hope to have before the end of this month a draft grant agreement for approximately $100,000 for FFAC (Denver) consideration. The grant, as it is now anticipated, will be to cover the salaries for her entire Vietnamese staff for a 12 month period.

We have now concluded child care grant agreements with the International Rescue Committee, Travelers Aid, International Social Services, Holt Childrens Services, CARE and Catholic Relief Services totaling $3,308,000. Our most recent grant was just signed with CRS on May 17 for orphanage improvement. Our plans are to conclude additional agreements during the next month with World Vision, World Rehabilitation Fund and Catholic Relief Services. With the $1,207,000 child care agreement with the Ministry of Social Welfare already concluded, I feel the initial planning and funding phase for the child care program is nearly complete and that the implementation phase is now underway.

Thank you very much for your continuing interest in the child care program of Vietnam.

Sincerely yours,

E. G. ROUFF,
Associate Director,
Relief and Rehabilitation.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE, OFFICE OF THE SECRETARY, OFFICE OF HUMAN DEVELOPMENT,
Washington, D.C., May 28, 1974.

Hon. WILLIAM A. STEIGER,
House of Representatives,
Washington, D.C.

DEAR MR. STEIGER: During our discussion last week you asked about HEW's current activities with regard to Vietnamese orphans. At that time I indicated we had a number of initiatives underway that I would forward to you.

HEW's involvement for the past couple of years has been basically in assisting the Agency for International Development in analyzing the problems of Vietnamese children and exploring opportunities for expanding intercountry adoption by American citizens. This effort was formalized last October in a Department-wide Task Force which was charged with responsibility to identify ways that HEW and other Federal Departments could facilitate the intercountry adoption process. The Task Force recommended changes in existing regulations of the Immigration and Naturalization Service as well as recommended that HEW serve as a catalytic force in expediting the identification and placement of these children.

The Agency for International Development has as its major responsibility the coordination of activities in Vietnam and has been working with a number of international voluntary organizations facilitating the placement of these children. The main challenge to HEW is not in the international sphere so much as it is in encouraging State social service agencies to expedite the identification of potential parents, the initiation of home studies, and the provision of post-adoptive services. Federal funding is available to support these services through Title IV A and B of the Social Security Act. The Social and Rehabilitation Service and the Childrens Bureau provide technical assistance to State welfare agencies informing them about Vietnamese adoption procedures and funding which is available for this purpose. We encourage their assistance in facilitating home studies and actual adoptions. Regional office staff provide much of this continuing liaison.

Private social welfare agencies providing adoption services both locally and internationally have come to us for additional financial assistance to supplement the domestic adoptions. The Childrens Bureau works on a continuing basis with a number of these agencies such as Travelers Aid, Catholic Relief Committee, Holt Adoption Program and Friends For All Children.

We are currently reviewing a proposal submitted by the Interagency Vietnamese Adoption Committee (IVAC) which is primarily concerned with placement of Afro-Asian children, the children who are most alienated by Vietnamese society. IVAC is requesting joint funding from AID and HEW which would result in placement of over 300 children during the next two years. We will be reviewing this proposal and will make a funding decision this fiscal year.

We have been working with the Immigration and Naturalization Service which has the obvious control on immigration procedures to request that their processing forms be revised to expedite entrance to this country of Vietnamese orphans to be adopted. INS has improved considerably their services to petitioning parents and has asked the FBI to expedite the fingerprint investigations to also decrease the processing time. They have eliminated several documents of processing, and we feel that through our collaborative efforts, this process can be further streamlined.

Henry Kissinger, at the request of the President, recently sent Secretary Weinberger a letter expressing Presidential interest in assuring that adequate attention and resources be directed to improving the well-being of the Vietnamese war orphans. We will be continuing our efforts in this regard, and I will keep you informed as new initiatives are developed by the Administration.

Sincerely,

STANLEY B. THOMAS, Jr.

ADOPTION INFORMATION, U.S. EMBASSY, SAIGON

Americans interested in adopting children in Vietnam should contact one of the agencies listed on the attached sheet. Each of these agencies has been licensed here to conduct intercountry adoptions. The agencies will provide information concerning the requirements to be met as a potential adoptive parent. Only after these requirements have been met will you be offered a child for potential placement in your home.

Americans resident in Vietnam should contact either Holt Children's Services, 441 Vo Tanh, Gia Dinh, telephone number PTT 41618, or International Social Services, 51 Mac Dinh Chi, Saigon, telephone number PTT 91693. These two agencies are prepared to assist persons resident here.

Under recent procedural changes promulgated by the Government of Vietnam all adoptions should be handled by one of the approved agencies. So your first step is to contact an agency for assistance.

You will find attached a summary of the Vietnamese and American regulations governing adoption and immigration of children for adoption. The agencies operating here are also familiar with the Vietnamese laws concerning adoption, United States immigration regulations, and special administrative procedures relating to Vietnamese adoptions. Your agency will be your guide through the entire process.

Many Americans adopting Vietnamese children in the past have found it a time-consuming and frustrating experience. While recent changes in administrative procedures here have made it possible for most children to depart for their adoptive homes in from two to four months of their placement, you will still find patience a necessity. There are many more American families seeking to adopt Vietnamese children than there are Vietnamese children available for adoption. Many children in Vietnamese orphanages are not legally available for adoption and some orphanages are still hesitant about placing children for adoption in a foreign country. By following carefully the instructions of the agency with which you choose to work, you will reduce your own frustration and speed the arrival of the child in the United States.

The following agencies with branches here in Vietnam are active in intercountry adoption work. All are either licensed or in the process of being licensed by the Ministry of Social Welfare of the Republic of Vietnam to handle such adoptions.

Prospective adoptive parents should contact one of the following agencies:

Holt Children's Services of Vietnam, P.O. Box 2420, Eugene, Oregon 97402, Telephone: (503) 687–2202.

Travelers Aid-International Social Service of America, 345 East 46th Street, New York, New York 10017, Telephone: (212) 687–2747.

Friends for All Children, 445 South 68th Street, Boulder, Colorado 80303, Telephone: (303) 494–7305.

United States Catholic Conference, 201 Park Avenue, South, New York, New York 10003, Telephone: (212) 475–5400.

Friends of Children of Vietnam, 600 Gilpin, Denver, Colorado 80211, Telephone: (303) 321–8251/321–8262.

Pearl S. Buck Foundation, Inc., 2019 Delancey Place, Philadelphia, Pennsylvania 19103, Telephone: (215) 732–1030.

World Vision Relief Organization, 919 West Huntington Drive, Monrovia, California 91016.

Mrs. MINK. Mr. Speaker, I would again like to join with my colleague from Wisconsin in offering additional information about our child welfare program in Vietnam. I am advised that as of June 30, 1974, $7.2 million had been obligated. I am deeply, deeply concerned, however, about the length of time it has taken to implement these programs. The money has been very slow to reach the people and programs it is intended to help. The priority Congress gave the child welfare program has yet to be expressed in a timely implementation. The information follows:

[Telegram]
(Unclassified)

DEPARTMENT OF STATE,
Saigon, June 1974.

American Embassy, Saigon.
To: Secretary of State, Washington, D.C.
Subject: Child care program.

1. Status of grants to VOLAGS (and one contract with IRC) is as follows:

(NOTE.—Figures in U.S. dollars.)

SIGNED

INTENSIVE PEDIATRIC CARE UNITS (CONTRACT)
Saigon, IRC, $239,000.
Danang, IRC, $35,000.
Orphanage improvement, CRS, $1,355,000.
Day care centers, CARE, $1,180,000.
Adoption, TAISSA, $248,200.
Adoption, HOLT, $225,000.
Total, $3,282,200.

Note: Adoption grants provide also for child care services; TAISSA grant includes $24,200 for IVAC.

GRANTS IN PREPARATION (PIO/TS COMPLETED)
Adoption, CRS, $143,000.
Adoption, FFAC, $100,000.

Family assistance, Holt, $500,000.
Home nurseries, World Vision, $150,000.
Nutrition centers, World Vision, $200,000.
Total, $1,093,000.

PIO/TS IN SIGNATURE PROCESS

Home nurseries, CRS, $417,000.
Nutrition, CRS, $410,000.
Prevention infant abandonment, CRS, $25,000.
Total, $852,000.
Grand total: $5,227,200.

2. World rehabilitation fund had tentatively agreed to coordinate handicapped children project but subsequent discussions between HSW, USAID and WRF reps. led to agreement that MSW would itself assume coordinating role. MSW will make grants to WRF for physical therapy activities and to other organizations for assistance to emotionally disturbed and other handicapped children.

3. We expect CRS and FFAC adoption grants to be signed by June 11, and other grants in preparation (para 1 above) by June 18. Grants for which PIO/TS not yet completed will be signed before June 30.

4. Regarding inquiry as to status my friends' house request to CRS for subgrant, MFH did not request subgrant as such. However, CRS has arranged under its nutrition project to purchase the services of MFH to provide intensive care for seriously malnourished children. CRS will pay for food, maintenance, medical attention, etc. for about 100 children (i.e. occupancy of 100 beds) at approximately 50 thousand piasters per child per month. Thus MFH expects to receive from CRS approximately 60 million piasters (US dollars 97,000) during the one-year term of the CRS grant.

ADOPTIONS COMPLETED BY MSW-AUTHORIZED AGENCIES, CALENDAR YEAR 1971 THROUGH MAY 1974

Calendar year	FFAC	Holt	TAISSA	CRS	WVRO	Total
1971						150
1972						500
1973:						
A. To all countries (including United States)	583	30	43	0	26	682
B. To United States	298	30	29	0	18	375
January to May 1974:						
A. To all countries (including United States)	308	51	25	16	3	403
B. To United States	153	51	18	15	0	237

U.S. Voluntary Agencies currently authorized by the Ministry of Social Welfare, Government of Vietnam, to undertake intercountry child adoptions:

Friends For All Children (FFAC).
Holt Adoption Program, Inc. (Holt).
Travelers Aid—International Social Service of America, Inc. (TAISSA).
Catholic Relief Services (CRS).
World Vision Relief Organization (WVRO).
Friends of Children of Vietnam.
Pearl Buck Foundation.

CHILD WELFARE SERVICES IN VIETNAM, 1974

The Agency for International Development (A.I.D.) has initiated a new program designed to place greater emphasis on the needs of Vietnamese children disadvantaged by the war. In carrying out this program, the Government of Vietnam (GVN) and A.I.D. are seeking the maximum participation of United States voluntary agencies and international organizations. For fiscal 1974, A.I.D. has programmed $7.6 million in support of this effort.

The new child welfare program is designed to satisfy two main objectives. The more immediate objective is to provide basic and urgently needed assistance to indigent children requiring food, clothing, shelter and medical care. The longer range objective is to provide services which strengthen the family unit, the traditional provider of social welfare in Vietnamese society. Some examples of the assistance provided to child care are: pediatric care for indigents, food allowances for orphans, assistance to agencies processing adoptions, the refurbishing of orphanages, support for day care centers and the expansion of the training of child welfare workers.

Child welfare services in Vietnam are under the jurisdiction of the Vietnamese Ministry of Social Welfare. Given the tremendous demand that was being placed on the Ministry as a result of its responsibility for the care of over 200,000 refugees still in camps, the GVN agreed to use voluntary agencies to the maximum extent possible in the entire welfare field. There are about 20 American voluntary agencies, more than 10 private Vietnamese organizations and a number of foreign voluntary agencies all contributing to programs which benefit children and their families. It is estimated that American and other foreign voluntary agencies provide several millions of dollars worth of services for children in Vietnam each year. The U.S. encourages these private welfare organizations to expand their activities under the overall direction of the Vietnamese Ministry of Social Welfare. A.I.D. is also encouraging other bilateral donors and international organizations to assist the Government of Vietnam in this sector.

The major elements of the program are summarized below:

Orphanage support and improvement

Assistance in the form of food and clothing allowances, health care, equipment, improvement of facilities and staff training is planned for some 130 institutions caring for approximately 17,000 children. To date orphanages have received food supplementary cash allowances, Food for Peace (PL–480, Title II) commodities and a limited number have received funds for facility improvements.

Handicapped children

Assistance will be provided to improve custodial care and therapy in seven centers caring for some 2,000 children. The seven centers have not received U.S. support heretofore.

Pediatric clinics

Two clinics, one in Saigon, the other in Danang have been established to provide diagnostic and therapeutic care to children disadvantaged by hostilities. Particular emphasis will be placed on children selected by agencies processing intercountry adoptions and also on severely-ill children from orphanages and other child care institutions. The first clinic, with 70 beds/incubators, began operations in Saigon in January 1974. The Danang clinic with 30 beds began operations in May. The International Rescue Committee is the coordinating voluntary agency with World Relief Commission as the primary sub-grantee in Danang.

Day care centers

It is planned to provide assistance in the form of equipment, additional food and staff training for 275 existing day care centers and support in the development of 140 new centers. These 415 centers will serve approximately 88,000 children from four to six years of age while their parents work. To date, food supplements have been provided for about 23,000 children in the existing day centers, and also some funds have been provided for improvements.

Civilian widows' assistance

This activity is planned to provide support, vocational training and small scale capital assistance to 6,000 widows, and indirectly through them to an estimated 25,000 children. A pilot project for vocational training was launched in November 1973.

Foster care

It is planned to provide foster home care services for about 4,500 children as an alternative to their abandonment, institutionalization or adoption. Foster families will be provided funds to cover food, clothing and medical expenses for each child.

Home nursery care

It is planned to provide day nursery services for about 9,500 children who are too young for day care centers. A side benefit is the estimated 2,000 jobs it will create for widows or other unemployed women.

Nutrition centers

It is planned to expand three existing nutrition centers and create nine additional centers to care for about 7,800 seriously malnourished children. The nutrition centers will provide intensive medical care with special feeding for up to 60 days of severely malnourished or diseased children and return them to their families once they are returned to health.

Prevention of infant abandonment

Counseling service will be provided to emotionally distraught expectant mothers who might abandon their children. Trained counselors working in hospitals or maternity centers can identify these mothers and provide the advice and assistance necessary to prevent them from abandoning their children. A small pilot project has been initiated.

Midwife pediatric training

It is planned to provide training on basic principles of pediatric medicine and nutrition to midwives so they can assist mothers. The midwife is the health worker most respected by and accessible to lower income Vietnamese.

International adoption

This activity is designed to assist four agencies, Travelers Aid International Social Service of America (TAISSA), Holt Adoption Program, Catholic Relief Services and Friends for All Children, to expand and improve their intercountry adoption programs and related child welfare activities. Because of the special problems related to children of mixed parentage, a sub-grant of $96,000 has been given to Interagency Vietnam Adoption Program.

Training child welfare workers

This activity is designed primarily to strengthen the role of the Ministry of Social Welfare in developing and implementing family and child welfare services. This will be done by the training of child welfare workers and the upgrading of those already employed. Some initial training has taken place.

It should be recognized that there is a turnover among the children and mothers being assisted through the various child care activities, and that as children leave orphanages, or have their physical condition improve under medical programs, or as families become self-supporting, others will take their place. Hence, the numbers of children assisted are much more than the total of the capacities of the described child care services.

While $7.6 million is specifically earmarked for child care activities, we are confident that a total of about $42 million of U.S. funds is in direct support of child care programs. This is because more than 50 percent of the refugees who receive AID support are

children under the age of 15 and more than half of the beneficiaries of our public health program are children. Therefore, using a 50 percent factor, which by any standards would appear conservative, the $42 million estimate represents an increase of about $11 million over 1973. (The $42 million total includes $1.6 million for medical supplies from DOD appropriations and $1.7 million of PL–480, Title II food donations, both managed by AID.)

STATUS OF CHILD SERVICES PROGRAM IN VIETNAM, JUNE 28, 1974

A brief summary on implementation to date of the various parts of the child services program is as follows:

A. *General.* The project agreement between the Agency for International Development (A.I.D.) and the Government of Vietnam's (GVN) Ministry of Social Welfare (MSW) was signed on February 20, 1974. Implementing documents which define each part of the program, the general approach and the objectives to be achieved and the agreements with voluntary agencies are at various stages of execution, some already signed as indicated below. It is expected that all agreements will have been fully executed by June 30. When agreements are signed, the voluntary agencies prepare detailed work plans for approval by the MSW, and A.I.D. and grantees will make sub-grants to other volags. It is agreed that the use of Vietnamese volags as sub-grantees will be encouraged.

The GVN has the responsibility for the following projects: (Figures in parentheses are in U.S. $000 and are subject to some modification as detailed projects develop.) Civilian widows (MSW, 476); general child welfare (MSW, 228); child health training school (Ministry of Health, 324); training of MSW employees (198); handicapped children (MSW, 234); volags have: foster care and family assistance (500); home nursery (567); nutrition centers (610); pediatric clinics (275); international adoptions (716); volags and MSW share: day care centers (1,180 for volags and 248 for MSW); orphanage improvement (1,355 and 138); prevention infant abandonment (25 and 19). Particularly for these "shared" programs, close coordination of volags with MSW will be required. $377,000 is programmed for A.I.D. personnel support costs.

B. *Day Care Centers.* Cooperative for American Relief Everywhere (CARE) is the coordinating agency (volag portion). The implementing document has been signed. A Grant Agreement was signed for $1.18 million on May 24.

C. *Civilian Widows.* MSW program is underway with $476,000 made available for this program in CY 1974.

D. *Family Assistance and Foster Care.* Holt Children's Services has agreed to coordinate this project. Implementing document has been signed and grant agreement is being prepared for signature. Potential participating agencies include Foster Parents Plan, Baptist Social Services, Christian and Missionary Alliance, Pearl Buck Foundation and Assemblies of God. Travelers Aid International Social Service of America (TAISSA) is already doing family service under its current contract.

E. *Home Nursery Care Nutrition Centers.* World Vision and Catholic Relief Services have agreed to coordinate project. Grant Agreement for World Vision has been signed. The implementing document for CRS is in the MSW/USAID signature process.

F. *Prevention of Infant Abandonment.* CRS has agreed to coordinate the volag portion of this project. The implementing document is in the MSW/USAID signature process.

G. *Orphanage Support and Improvement.* CRS is the coordinating agency (volag portion). A grant for $1.355 million was made available and signed on May 17. $138.000 has been made available to the Ministry of Social Welfare for orphanage support.

H. *Handicapped Children.* The MSW will coordinate this project and will make grants to World Rehabilitation Fund and other volags to meet the needs of various discrete groups of handicapped children.

I. *Pediatric Clinics.* International Rescue Committee, under contract, is operating the Saigon clinic and has entered into a subgrant agreement with World Relief Commission for a clinic in Danang. The total grant is $274,000.

J. *International Adoption.* Traveler's Aid-International Social Service of America, Holt International Children's Services, Interagency Vietnam Adoption Agency and Friends for All Children have received grants, a total of $573,200. Implementing documents to provide $143,000 to Catholic Relief Services have been signed and a grant agreement is under preparation for signature.

K. *Child Training School.* Project details are being developed between U.S.A.I.D. and the Ministry of Health (MOH). The MOH will implement this project. $324,000 has been made available for this purpose.

FREEDOM FROM MILITARY SURVEILLANCE ACT OF 1974

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. STEELMAN) is recognized for 5 minutes.

Mr. STEELMAN. Mr. Speaker, as part of the effort to help guarantee to our citizens the right to individual privacy, I am pleased to introduce today the "Freedom From Military Surveillance Act of 1974." This bill will be the House companion bill to Senator SAM J. ERVIN, JR.'s legislation that has already been reported favorably out of subcommittee to the entire Senate Judiciary Committee.

This bill, if enacted, when taken with several other reform bills that I have sponsored or cosponsored, would help to put an end to the attempts the Government has waged against the privacy of the American citizen.

This bill and H.R. 15492 the "Surveillance Practices and Procedures Act of 1974" to prohibit warrantless wiretaps by the Government;

H.R. 14037 to prohibit the use of the social security number from developing into a "standard universal identifier";

H.R. 14036, the "Code of Fair Information Practices of 1973" to protect the individual against the invasion of his privacy by Government computer data banks; and

H.R. 10906, the "Right to Financial Privacy Act of 1973" to protect the privacy of an individual's banking transactions, are all bills that I feel critically necessary to return to the citizens of this country the right of privacy, and I have accordingly sponsored or cosponsored them.

Specifically, the "Freedom From Military Surveillance Act of 1974" which I am introducing today, will protect the constitutional right of privacy of American citizens by prohibiting the Armed Forces of the United States from collecting information or conducting surveillance upon persons unaffiliated with the Armed Forces.

After the revelations relating to the undercover intelligence programs conducted by the Armed Forces in 1970 and 1971, the public outrage which ensued forced the military to discontinue its domestic intelligence activities. Surveillance was supposedly ended, and the fruits of prior surveillance destroyed.

However, many quarters of the Government and many citizens are not satisfied with leaving the assurance that the military will not renew its domestic surveillance, in the hands of the military. This dissatisfaction is becoming even more acute in view of the recent Army efforts to justify in U.S. district court its surveillance activities on American citizens living in Berlin, Germany. In this case Army attorneys presented a 127-page brief to U.S. District Court Judge William B. Jones wherein they admitted their continuing surveillance of civilians and asserted that the courts should not exercise jurisdiction in the matter and also claimed that:

> The Fourth Amendment cannot be used as a sword . . . to frustrate essential military intelligence activities overseas.

Mr. Speaker, when has it become the practice of the armed services to feel they are above the judicial system of the Government that supports them? And when and where have the armed services garnered the belief that the fourth amendment or the Constitution becomes null and void in the face of so-called essential military intelligence activities overseas?

In another vein, Mr. Speaker, I quote from the March 30, 1974, edition of the New Republic wherein a former National Security Council official describes the situation:

> After the great army political surveillance scandals of 1970–71, the administration assured the public that military intelligence would be brought under control. The Pentagon issued strict regulations against spying on civilians, thereby staving off some stricter supervision by Congress and the courts. But there was a catch. The controls did not apply overseas.

Mr. Speaker, these controls should apply overseas. An American citizen surely does not abdicate his constitutional rights when he visits abroad in respect to activities carried on by the U.S. Armed Forces. It is time the Congress took its proper role in this matter and enacted legislation designed to stop this invasion of privacy of American citizens perpetuated by the Armed Forces here at home or anywhere in the world. We cannot as a country afford to be caught in a hypocritical position of guaranteeing the rights of our citizens domestically, then allow our Armed Forces to disregard these guarantees when these same citizens travel abroad.

There may be times when in repelling invasion of dealing with domestic insurrection, investigating criminal conduct, or determining employment eligibility for the Armed Forces, exceptions may be justified. But this is for the Congress, as a representative of the people to decide and put into law.

In accordance with the constitutional power of the Congress "To make rules for the Government and regulation for land and naval forces" the bill provides that civil officers of the United States or members of the Armed Forces of the United States who willfully employ any part of the Armed Forces of the United States or

the militia of any State to conduct investigations into, maintain surveillance over, or maintain records regarding, the beliefs, associations, political activities, or private affairs of any citizens of the United States not a member of the Armed Forces, or of any civilian organization, shall be fined not more than $10,000 or imprisoned not more than 2 years, or both.

The bill will neither limit or enlarge such legal authority of the Armed Forces of the United States as may exist to: first, investigate criminal conduct, if such investigation is lawfully the charge of the Armed Forces, second, determine the suitability for employment of civilian persons and prospective or actual contractors who are applicants for employment with the Armed Forces of the United States, and third, collect and maintain information necessary to the restoration of public order once the Armed Services of the United States has been deployed under statutory authority to suppress domestic violence.

The civil remedies section of this bill will give standing to any individual or organization who is subject to surveillance or investigation in violation of the act to sue for damages and for equitable relief. Provision is also made for a special class action suit for equitable relief to enjoin and redress violations of the act.

Mr. Speaker, in line with the intent of my bill, I am pleased that the President's Domestic Council Committee on the Right of Privacy headed by Vice President GERALD FORD, has directed one of its 14 initiatives on privacy toward the prevention of military surveillance of civilians. It is my understanding that the staff of Vice President FORD's committee has completely endorsed and supports passage of the bill I am introducing in the House today. I would hope that this Presidential committee on privacy accepts their staff recommendations and joins us in this effort.

In any event Mr. Speaker, though I am pleased that the Armed Forces have taken steps to stop surveillance of citizens, this is not a compelling reason for inaction on the part of the Congress, and I call upon my colleagues to support this legislative effort. We can thus insure that this practice will not return in years hence and also we will insure that this practice is stopped overseas.

UNITED STATES-SOVIET NAVAL BALANCE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Idaho (Mr. HANSEN) is recognized for 5 minutes.

Mr. HANSEN of Idaho. Mr. Speaker, any complete assessment of the balance of military power between the United States and the Soviet Union must include an analysis of current strengths in the naval forces of the two countries. However, one cannot simply weigh the size of one navy against the other and come up with any meaningful conclusion. Instead, one must also consider the differing primary objectives of these naval forces, and arrive at a net assessment that includes a perspective as to how these naval forces might influence foreign policy directions. This type of analysis must weigh the capability of the respective forces to carry out these apparent objectives.

Because of our great dependence on overseas sources of raw materials and because of our strong ties with overseas allies, we must insure our access to the seas in both peace and war. Consequently, the U.S. Navy general purpose forces have been designed primarily to control the sea lines of communication and to project our military power across the oceans. The Soviet Union is less dependent on overseas sources of supply and is less involved with overseas allies. Its long-term objective is apparently to weaken our ties with our own allies and prevent us from coming to their assistance in time of war. Accordingly, in the past, the Soviet navy general purpose forces have been designed primarily as a defensive and spoiling force to disrupt our sea lines of communication and to obstruct the projection of our military force across the oceans. Today, a new and more offensively oriented Soviet naval posture is developing. The new Soviet carriers will add a new capability which will help to free selected major combat surface ships from total dependence on shore-based aircraft for tactical air support; new and modernized heavily armed carriers and destroyers will strengthen the already formidable combat capabilities of the surface ships and new underway replenishment ships will allow the fleets much more freedom of movement in distant ocean areas. Increased attention to the naval infantry and modernization of the amphibious lift capability—particularly with the new potential for sea-based tactical air support—also indicate new Soviet interest in projecting its offensive power from the sea. These Soviet capabilities are becoming more formidable with every passing year—and the large and increasingly sophisticated submarine force is causing considerable concern in U.S. naval circles.

MAJOR SURFACE WARSHIPS

CHART NO. 1.—*Major Surface Ships*

U.S.

Major combatants: 174.

Inc: 14 Carriers (CVAN–68 NIMITZ comm date 15 Dec. 74); 7 Cruisers; 29 Guided missile destroyers; 33 Conventional destroyers; 28 Frigates; 63 Ocean escorts.

U.S.S.R.

Major Combatants: 221.

Inc: 2 Helicopter carriers; 17 Missile cruisers; 12 Conventional cruisers; 4 SSM missile destroyers; 39 SAM missile destroyers; 39 Conventional destroyers; 108 Escorts.

Chart 1 compares the number of United States and U.S.S.R. major operation combat surface ships. The Soviet force at mid–1974 is expected to consist of approximately two guided missile helicopter ships, 17 missile cruisers, 12 gun cruisers, 43 missile destroyers, 39 gun destroyers, and 108 escorts, for a total of 221 ships. It is likely that this force will decrease slightly as the retirement and transfer of older surface ships exceed the deliveries of the more sophisticated and generally heavier new ships.

A substantial Soviet naval modernization program is underway. Several new classes of combat surface ships are being constructed in the Soviet Union. Other older classes are undergoing major conversions involving the addition of new missiles, antisubmarine systems and communications equipment.

The largest Soviet surface combatant ever constructed is the recently launched Kuril class aircraft carrier. The ship is over 900 feet in length and should displace 30,000 to 40,000 tons when the fitting-out period is completed. Probably the most heavily armed class of ships in the world for its displacement—about 9,000 tons—is also being constructed by the Soviet Union. Two of these Kara class guided missile light cruisers are already operational and more are expected to join the fleet in the next few years. The Kara class is the first ship in any navy to be armed with three separate missile systems.

TABLE 2.—SOVIET MAJOR SURFACE WARSHIPS, 1958 AND 1972

Characteristic	Cruisers [1]		Destroyers [2]		Escorts [3]		All major combatants	
	1958	1972	1958	1972	1958	1972	1958	1972
Number of units	31	29	146	101	66	124	243	254
Mean tonnage [4]	12.4	10.4	2.3	2.9	1.3	1.2	3.3	2.9
Mean complement [5]	932	760	260	299	168	124	321	265
Number of surface-to-surface missiles (rails)	0	72	0	16	0	0	0	88
Number of surface-to-air missiles (rails)	0	46	0	86	0	0	0	132
Number of torpedo tubes [6]	216	218	1,318	831	198	657	1,732	1,706
Number of antisubmarine rockets [7]	0	396	832	1,636	1,152	4,552	1,984	6,584
Helicopter capacity [8]	0	50	22	20	0	0	22	70
Mine capacity [5]	5,140	2,980	11,270	5,260	2,700	3,930	19,110	12,170

[1] Includes two Moskva-class helicopter cruisers in 1972.
[2] As defined by Jane's.
[3] Ocean-going escorts larger than 1,000 tons.
[4] Standard displacement in thousands of tons.
[5] Maximum listed.
[6] The comparison of torpedo tubes is not really meaningful. The 1958 torpedos were anti-surface-ship weapons. The 1972 torpedos are chiefly designed for anti-submarine warfare.
[7] Number of launcher barrels. Ships that may be outfitted with either depth charges or rockets are, for purposes of this table, assumed to be outfitted with rockets.
[8] On-board maintenance, maximum capacity.

Sources: Force level data are taken from "Jane's Fighting Ships," 1958–59 and 1972–73, Data pertaining to ships' characteristics are derived from Jane's and Breyer, "Guide to the Soviet Navy."

Table 2 compares Soviet naval forces in major surface warships from 1958 to 1972. Symbolically, 1958 serves as a watershed in the evolution of Soviet naval capabilities. It is assumed that the number, type and characteristics of naval units acquired and retired during this interval reflect the evolution of Soviet thought about the utility of sea power. This comparison highlights the priorities that the Soviet Union places on the various missions that naval forces can potentially undertake.

Although the Soviet Navy in 1974 is no larger than it was in 1958, it is a more modern military force by contemporary standards and consequently far more capable in many respects. It is impressive in the extent of its modernization and in the scope of its now global deployment. It appears that the Soviet Union, like the United States, has been compelled during the last 15 years to trade quantity for quality in its naval force.

COMPARISON OF U.S. AND U.S.S.R. SUBMARINE FORCES

Chart No. 3.—Submarines

UNITED STATES

Submarines: 115.
Diesel powered, 14.
Nuclear powered, 101, including 41 SSBN, 60 SSN.

U.S.S.R.

Submarines: 315.
Diesel powered, 200.
Nuclear powered, 115, including 30 YANKEE Class SSBN; 2 DELTA Class SSBN; 30 Other balistic missile subs.

Chart 3 compares the number of United States and U.S.S.R. submarines. The Soviets have led the world in the production of submarines in the post World War II period. Since the end of the war the Soviet shipyards have built almost 600 submarines, compared to about 150 for the United States. Equally significant, since the 1940's the Soviets have put to sea at least 17 new classes of submarines—more than half of them nuclear powered—with many of these classes having several variations or subclasses.

In discussing the Soviet submarine fleet, one must address three specific categories:

First. Attack/torpedo submarines—submarines that attack an enemy surface ship or submarine using torpedoes.

Second. Guided/cruise missile submarines—submarines that fire antiship missiles, which sometimes can strike a ship beyond the range of the ship's antisubmarine weapons.

Third. Strategic/ballistic missile submarines—submarines armed with long-range, nuclear tipped missiles for striking an enemy's cities.

SOVIET ATTACK SUBMARINES

The Soviets operate almost 200 attack submarines. Most are diesel electric propelled and some are of recent construction. More than 30 of the torpedo-attack submarines are nuclear propelled, most being of the November and Victor classes. The latter are believed the fastest undersea craft in service today.

Although the Soviet Navy has just over 30 torpedo-attack nuclear submarines in service compared to 60 for the U.S. Navy, in total nuclear undersea craft the Soviets lead with an edge of 115 to 101 at the beginning of 1974.

SOVIET GUIDED MISSILE SUBMARINES

This is another area of naval technology in which the Soviets have pioneered. Building on German experiments during World War II, both the United States and the Soviet Navies experimented with forms of missile-launching submarines after World War II.

The Soviet Navy developed guided missile submarines in the 1950's as part of a strategy to counter U.S. aircraft carriers. Initially, existing submarines were converted to fire the long-range Shaddock missile. Then, submarines designed to carry the Shaddock joined the Soviet fleet: the diesel-propelled Juliett class and the nuclear-propelled *Echo* series.

After producing almost 50 submarines of the Juliett and Echo classes, the Soviets completed the first Charlie class submarine in 1968. This nuclear-powered craft can fire eight short-range, 25-mile antiship missiles while remaining submerged. Although the Charlie missile range is less than that of submarines armed with the Shaddock, the latter submarines must surface briefly before firing. The underwater launch capability of the Charlie makes this craft the most potent antiship submarine in service today. All of these guided-missile submarines also have conventional torpedo tubes.

The Soviet Navy's guided-missile submarines and their missile-armed bombers form the most potent threat to allied naval forces, especially when within range of Soviet land bases where the Soviets can launch coordinated attacks using reconnaissance aircraft to provide guidance for submarine-launched missiles.

SOVIET BALLISTIC MISSILE SUBMARINES

The development of nuclear weapons led to another role for the submarine, that of strategic or ballistic missile attack against land targets. Submarines are valuable in this role because the difficulty of their detection in the ocean depths makes them highly survivable against hostile preemptive attack.

The Soviets began converting existing diesel-powered submarines in the mid-1950's to fire short-range submarine launched ballistic missile—SLBM. Then, in the early 1960's the 22 Golf-class diesel and 9 Hotel-class nuclear SLBM submarines were constructed. These submarines were limited by mechanical difficulties, short-range missiles and the requirement for surface launch of their initial missiles.

The dreaded Yankee class, a long-range ballistic-missile-firing submarine, first appeared in 1967. Armed with 16 nuclear-tipped missiles of 1,300-nautical-mile range, this class is the Soviet counterpart for the U.S. Navy's Polaris program.

For several years now, we have been living with these submarines loitering off both our coasts within range of most of our industrial capacity and our strategic weapons launch sites. Thirty of these ballistic submarines have been built by the Soviets to date.

Within the past year, we have seen a new ballistic missile submarine follow the Yankee. Labeled Delta-class by NATO, this huge craft is the largest undersea craft ever built. She is armed with 12 of the awesome SS–N–8 missiles of about 4,000-nautical-mile range which could hit any target within the United States from either the Pacific or Atlantic Oceans, or could target the city of San Francisco while still in port at Petropavlosk, on the Soviet Union's Pacific coast.

Some 115 nuclear-propelled submarines are estimated to have been built in the Soviet Union to date, of which more than 80 are armed with either cruise or ballistic missiles. In contrast, the United States has 101 nuclear-powered submarines in commission of which only 41 are armed with missiles. In the Soviet Navy, an additional 40 diesel-powered submarines are armed with ballistic and cruise missiles of 400-mile range, posing a threat without a counterpart in the U.S. Navy.

SOVIET SUBMARINE MODERNIZATION

Since 1968, the Soviet Union has been producing nuclear-powered submarines at the rate of 15 to 16 a year, 9 to 10 of which have been ballistic missile submarines. If one assumes that all diesel-powered submarines built before 1958 will be retired by 1980 and present nuclear submarine construction rates will continue at the present level, the U.S.S.R. will have a force of some 200 to 230 torpedo attack and cruise missile submarines. Thus, the torpedo attack and cruise missile submarine force in 1980 will probably be less than one-half the size of the force in 1958, but more than three-fourths of it will be nuclear powered.

This contrast between diminishing force levels but increasing capabilities for individual units is apparent. Though the present force is less than the 1958 level, the Soviet submarine force is now capable in several respects, as indicated in the following chart noting the technological evolution of Soviet submarines from 1958 to 1972:

CHART NO. 4.—U.S.S.R. SUBMARINE FORCE COMPARISON 1958–72

Characteristic	Diesal-powered		Nuclear-powered	
	1958	1972	1958	1972
Torpedo attack and cruise missile submarines:				
Number of units	474	286	[1] (3)	61
Mean tonnage [2]	0.8	1.3	3.5	4.4
Mean range [3]	9.5	14.5	∞	∞
Mean complement	43.7	61.6	88	95
Total number of torpedo tubes	2,478	1,808	18	400
Total number of cruise missiles (tubes or rails)	0	98	0	304
Strategic (ballistic missile) submarines:				
Number of units	[4] 7	25	0	34
Total number of missiles (tubes)	14	72	0	427
Mean tonnage [2]	2.1	2.6	----	6.9
Mean range [3]	20.0	23.1	----	∞

[1] 3 nuclear units were listed as under construction in 1958.
[2] Maximum surface displacement in thousands of tons.
[3] At cruising speed, in thousands of nautical miles.
[4] Derived from issues of "Jane's" after 1958–59.

Sources: Force level data are taken from "Jane's Fighting Ships," 1958–59 and 1972–73. Data pertaining to ships' characteristics are derived from "Jane's" and Siegfried Breyer, "Guide to the Soviet Navy", translated by Lt. Cdr. M. W. Henley (U.S. Naval Institute, 1970).

One should note the increase in the number of nuclear-powered submarines, including strategic, cruise missile, and torpedo attack varieties. Between 1958 and 1972, aggregate submarine tonnage increased 50 percent despite declines in the force level. Similarly, the decline in the total number of torpedo tubes has not been proportional to the decline in force levels, since new submarines incorporate more tubes per boat. The diesel-powered force in 1972 was even more capable than its 1958 counterpart, with a 54-percent increase in the units' mean range, reflecting a halt in the construction of coastal and medium-range units and the retirement of prewar construction short-range submarines.

U.S. SUBMARINE FORCE

Today, Polaris and Poseidon submarine-launched ballistic missiles give the best promise of surviving a first strike by the Soviets or by any nation with nuclear capabilities. The 41 subs, most of which are constantly at sea, are each armed with 16 nuclear-tipped missiles—for a total of 656 engines of retaliation that could hit Soviet targets from the Western Pacific, from the Eastern Mediterranean, from the North Atlantic or from Arctic Seas. In 1970, this U.S. force was considered almost invulnerable. The Russian Navy might be able to knock out several of these submarines, but not all 41—at least in the opinion of then-Secretary of Defense Melvin Laird. But events do not stand still and the capabilities of the Soviet Navy have increased dramatically in the last few years. This includes its antisubmarine capabilities as well as the development of a Soviet submarine missile force probably equal to ours. Because of these developments, the Navy feels that we must have a new missile submarine combination with much greater range—both to protect the U.S. submarine force and our land-based missile systems. This submarine, the Trident, would carry 24 multiwarhead missiles, would have an initial range of 4,000 miles and a later range of 6,000 miles—compared with a maximum of 2,500 miles for Polaris-Poseidon. The 6,000-mile range is beyond any known or forecasted detection or attack capabilities of antisubmarine efforts. Moscow is less than 6,000 great circle miles from our west coast ports north of Los Angeles and from our entire east coast and gulf coasts. Tridents could offer deterrent persuasion while lying in harbor in New York, Charleston, New Orleans, San Francisco, or Seattle. Trident is designed to be faster and larger than the Polaris subs and quieter at any speed. Its missiles would carry as much threat as our land-based missiles in terms of wallop. Its purpose, as projected by the U.S. Navy, is to buy nuclear peace in an era in which the Soviet Union has been speedily escalating its arms while sitting with us in SALT disarmament talks.

Congress has authorized a bit over $5.1 billion for 10 Tridents which fixes the expected initial cost of each at a little over a half-billion dollars apiece. Funds have been appropriated in this fiscal year to build the first Trident sub. If appropriations consistent with the authorization continue, the second should be started next year. However, congressional support is slim and criticism of Trident is so persistent that future appropriations are hardly assured.

Much opposition centers in the fact that Trident would be so potent that it would play a disproportionately heavy role, compared to land-based missiles and our bombers, in fulfilling our deterrent policy. However, if the Soviets continue their rapid modernization moves in their own submarine force, opposition to the Trident program may well moderate.

UNITED STATES-U.S.S.R. NAVAL FORCE COMPARISON—SMALL COMBATANTS, SUPPORT SHIPS, NAVAL AIRCRAFT, AND PERSONNEL STRENGTHS

Chart No. 5 compares the relative strengths of the Soviet Union and the United States in small combatants, amphibious ships, support ships, as well as naval aircraft and personnel.

UNITED STATES

Small combatants: 88, including 14 Patrol; 9 Minesweepers.

Amphibious ships: 65, including 65 Amphibious ships.

Support ships: 135, including 86 Auxiliaries; 49 Underway replenishment ships.

Naval aircraft

Attack	about 1,500
Fighter	about 900
ASW	about 160
Patrol	about 400
Training	about 1,400
Helicopter	about 1,200
Other	about 700
Total	about 6,260

Personnel strengths, November 30, 1973

Afloat	308,000
Ashore	254,000
Total	562,000

U.S.S.R.

Small combatants: about 1,300, including 130 guided missile patrol boats; 300 patrol craft; 150 sub-chasers; 100 coastal escorts; 260 minesweepers.

Amphibious ships: about 160, including 100 amphibious ships.

Support ships: about 1,140, including 740 auxiliaries; 400 yard and service craft.

Naval aircraft

[Approximate amounts]

Strike/Medium Bombers	350
Tankers	100
Reconnaissance	100
ASW	400
Transport	200
Training	50
Total	1,200

Personnel strengths

Afloat	180,000
Naval Aviation	40,000
Coastal Defense	10,000
Naval Infantry	10,000
Training	50,000
Shore support	180,000
Total[1]	470,000

[1] Additional units are in reserve.

The total ship strength of the United States, including those ships reflected in previous charts, stands at 512, compared to 3,000 for the Soviet Union. However, one cannot accurately compare the forces on a mere quantitative level. Qualitative advantages must also be included, and the quality and capability of our individual ships has clearly gone up. Since 1969, there has been a 45-percent reduction in the number of U.S. ships. Many of those phased out were aging World War II vintage ships, although some were retired to free up funds for modernization. The United States failed to make the needed investment in our naval forces during the 1960's primarily because of the financial demands of the Vietnam conflict.

The United States has halted the decline in force levels and is embarked on the much delayed modernization program, which is expected to increase the surface combatant force to about 230 by the end of the 1970's, and increase the number of nuclear attack submarines to around 90 by the early 1980's. In part, the increased spending levels for naval modernization and replenishment reflects the estimates of the force required to carry out mission unrelated to United States-Soviet conflict. However, recent improvements in Soviet naval capabilities predicate an appropriate U.S. response. As Adm. Thomas H. Moorer, recently retired Chairman of the Joint Chiefs of Staff, stated:

> The problem we face with the continuing growth in Soviet naval capabilities relative to our own is a matter of increasing concern to the Joint Chiefs of Staff. Unless we accelerate the modernization of our fleet, the Soviets will increasingly challenge our control of the seas in those maritime regions essential to the success of our forward defense strategy as well as in the ocean areas closer to our shores.

We must recognize the divergences between the potential "war fighting" capability of the Soviet navy and its actual use as an instrument of foreign policy during peacetime. The two superpowers are engaged in a naval rivalry. The driving force behind this rivalry is not, however, the fear that one side or the other will achieve sufficient military advantage to initiate large-scale conflict. So long as the threat of escalation to nuclear war looms over any potential U.S. Soviet military engagement, the probability of a shooting war between the superpowers will remain small. Rather, both sides are motivated by fear of the political consequences of any sharp change in the relative naval balance. The United States has long enjoyed a position of overwhelming naval superiority. The fear is that some nations perceiving the naval and more general military balance turning toward the Soviet Union would be reluctant to associate themselves with the United States, would make concessions to the Soviet Union inimical to U.S. interests, and would eventually draw closer to the Soviet orbit. Beyond this, there is concern that growing Soviet naval capabilities may increase Soviet willingness to take risks in bringing pressure to bear on other countries and may diminish U.S. willingness to assume comparable risks.

There is sufficient evidence about increasing emphasis on the peacetime and crisis use of the Soviet navy for political purposes to suggest a need for insuring that the U.S. forces are fully capable of accomplishing the missions

set out for them as instruments of naval diplomacy.

Rear Adm. Earl F. Rectanus, U.S. Navy, has eloquently assessed Soviet naval strategy as it relates to world diplomacy:

The Soviets have shown, in recent years; a marked degree of assurance and self-confidence. This can probably be attributed more to military parity, particularly in strategic weapons, than to anything else. They have also been greatly encouraged by U.S. losses of influence in certain areas, with economic difficulties faced by Americans both at home and abroad, and by increasing U.S. domestic pressure to curtail foreign involvement. Largely based on these considerations, Moscow would like to believe that international predominance by the U.S. is on the wane.

Current Soviet Naval and Maritime building programs as well as worldwide patterns of operational deployment are clearly being tailored to enhance their readiness for an expanding role in global involvement and to protect and exploit their overseas political and economic objectives. Soviet warships in company with supporting ships are being used more and more frequently as instruments of foreign policy in remote areas of the world. The Soviets learned the fallacy of long-range commitment with short-range power when they sought to introduce strategic weapons into Cuba in 1962.

Thus, they have seen sea control achieved through sheer presence in a superpower environment where neither of the two superpowers can afford to back down from a confrontation lest they jeopardize their power image. The only alternative is to avoid confrontation. This suggests that the first credible naval force of a superpower on the scene of a critical issue may deter the other superpower from entering the scene.

As naval strategy, this will require three principal elements: first, large numbers of warships and supporting auxiliaries with which to establish presence; second, sea-based air power in addition to missiles to achieve greater credibility as a projection force; and, third, the cultivation of more friendly ports throughout the world to facilitate logistics and to provide a plausible purpose for presence.

All three of these requirements are receiving much attention by the Soviet Union. As mentioned earlier, general purpose forces are joining the Soviet fleet at a rate 50 percent higher than in the U.S. Navy. Combat credibility is high. With the advent of sea-based aviation, a long standing gap in the credibility of Soviet naval power beyond the range of land-based air becomes plugged. Moreover, the ratio of firepower-to-tonnage is the highest of any Navy in the world. The Soviets have conducted intensive efforts to cultivate friendly ports. Many strategically located developing nations, particularly in the Indian Ocean area, are receiving devoted attention through Soviet assistance, trade and good-will naval visits. A similar pattern has long existed throughout North Africa and can be seen in West Africa.

The value of ships as instruments of foreign policy and political influence is well stated by a research associate of the British Institute for Strategic Studies:

"In time of peace, a superior warship on the spot can achieve results not obtainable in other ways and without regard to the purpose for which the ship was built. What counts is the existence of the Soviet Navy, not the original motives of its builders . . . when the object is to threaten force rather than use it."

The Soviets themselves summed it up well when, on 25 July 1971, radio Moscow declared:

"The presence of the Soviet Navy on the high seas represents a guarantee against imperialist provocations off foreign shores . . . its presence is a bridle on the imperialists who want to use their fleets as a police force in the struggle against democratic and national liberation movements."

CONCLUSION

In summary, we may see during this decade, the world's greatest land power also become pre-eminent on the seas. Mastery of the seas, and all the benefits that go with it, was claimed by Great Britain from the defeat of the Spanish Armada in the Sixteenth century until the Twentieth century. The United States has enjoyed supremacy since World War II.

For the United States, a nation whose character is so traditionally tied to the sea, such a challenging situation can influence the political, the military, the economic, and even the social systems of our great nation.

IMPLEMENTATION OF SUPPLEMENTAL SECURITY INCOME PROGRAM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. ESCH) is recognized for 30 minutes.

Mr. ESCH. Mr. Speaker, a wire service report this week highlighted the difficulty being encountered by the Federal Government in implementing the supplemental security income program. The news account tells how a Portland, Oreg. man has been receiving an SSI check for about $145 each month despite his best efforts to explain to the local Social Security Administration office that he is no longer qualified for the payments. The individual even returned one check only to have the Government send him a duplicate 2 weeks later.

This incident might be blamed on a computer abberation and even considered somewhat amusing were it not for the fact that literally thousands of persons throughout the country are being frustrated in their efforts to receive checks to which they are legitimately entitled. Fortunately, the Social Security Administration has reacted in a positive fashion and I am convinced that efforts are now underway to clear up both computer and procedural problems plaguing the program. However, I intend to continue to monitor the situation closely through the General Accounting Office and SSA and Health, Education, and Welfare officials.

As a result of the interest expressed by many Members and staffs following my Dear Colleague regarding SSI, I intend at this point in the RECORD to summarize the problems we have uncovered plus the steps being taken as outlined in the very responsive letter I have received from Secretary Weinberger.

As I am certain has been the experience of other Congressmen, constituent complaints began this spring following implementation on January 1 of the SSI program which was signed into law in October of 1972. In early May I learned from various individuals including representatives of the Washtenaw, Mich., Association for Retarded Children that failure to insure a smooth transition from the programs replaced by SSI was creating widespread confusion among SSI recipients. This was particularly true of the handicapped and the transition from the aid-to-disabled program to SSI.

After a preliminary investigation, I found their charges to be true. In fact, it appears that what has occured is a general breakdown of the entire SSI program, leaving thousands of recipients either without benefits or totally confused as to eligibility. A tremendous backlog of cases piled up. For example, I understand that by mid-May there were some 630,000 new claims cases pending and that during the next 4 weeks there were an additional 150,000 new SSI applications. However, emergency measures to improve SSI program performance were ordered by Commissioner James B. Cardwell and a claims payment strike force was created to be directed by Elliot A. Kirschbaum.

On May 30, I sent a long and detailed letter to Secretary Weinberger outlining my concerns and I met with HEW and SSA officials. The problems were quite specific and because of the likelihood that similar situations may apply in the districts of other members, I am including a copy of the text of my letter to Secretary Weinberger at this point in the RECORD:

MAY 30, 1974.

HON. CASPAR W. WEINBERGER,
Secretary of the Department of Health, Education, and Welfare, Washington, D.C.

DEAR SECRETARY WEINBERGER: The purpose of this letter is to express my shock and dismay over the incredible situation which has developed over the failure of the Social Security Administration to implement regulations under the Supplemental Security Income program, implemented under Title XVI of the Social Security Amendments of 1974.

The failure to develop final guidelines to insure a smooth transition from the Aid to Disabled program to SSI, after more than 17 months, is creating widespread confusion and near hysteria at the local levels over the eligibility of thousands of handicapped for SSI benefits. While SSI apparently has developed "interim" regulations, they have apparently have not bothered to put them all together in one package.

For example, SSI in Balitmore has failed to develop a final definition of "student status," or at least has failed to let the District Offices know what this definition is. If a person of age 18, applied December or earlier, he would be eligible for SSI benefits by virtue of grandfathering from A.D., no matter what the parents' circumstances. However, an 18 year old who applied after January 1, the effective date of SSI, must choose between financial benefits or education programs unless that disabled persons' parents' income and resources are nil. If a person selects "student status," the present guidelines extend the dependency of the handicapped adult until age 22, unless they keep that person out of school programs. All this is understood.

However, the confusion comes in defining "student status." Michigan has passed a Mandatory Special Education Act providing the right to education for all handicapped until age 25, and has encouraged non-institutionalization of education benefits for the disabled. In many—in fact, most—instances, this means the handicapped are involved in part-time "community-school" training, which in only rare instances equals the benefits that would be provided under SSI if a disabled person elected not to participate.

The effect has been that in this confusion, many parents are simply pulling their dis-

abled out of school to allow that person to receive full SSI benefits rather than the vastly reduced benefits if he or she maintained "student status." This, clearly, was not the intent of the law, and I certainly doubt that Congress meant to discourage self-sufficiency for the handicapped. But the problem largely results from the failure of the Social Security Administration to implement a standard of any kind, and the effect has been that parents and the handicapped themselves just don't know what to do, and they aren't getting any answers.

If this is confusing, it is because I am, the handicapped in Michigan, parents of handicapped in Mhichigan, officials at the local level, and I daresay, those at the national level are likewise confused.

It must stop. If there has been any problem—after 17 months—on the part of the Social Security Administration to understand the intent of Congress, they should have expressed their concern to Congress months ago—long before this situation was allowed to develop.

I have enclosed a seven point summary of concerns that have emanated from the lack of guidance from the Social Security Administration in my district. I would very much appreciate an immediate response to the concerns expressed therein, as well as full explanation for the delay. I have attempted to receive an explanation from Mr. Mettson at SSI in Baltimore, but to date have not received any kind of response.

I have sent copies of this letter to Chairman Wilbur Mills of the House Ways and Means Committee as well as to other concerned Members of Congress. I have also asked the General Accounting Office to make an investigation into this situation.

Sincerely,

MARVIN L. ESCH,
Member of Congress.

SUMMARY

The following are seven general areas of concern that I have discussed with representatives of the Washtenaw Association of the Mentally Retarded concerning the implementation of regulations under SSI for the handicapped.

1. Apparently, none—or very few—handicapped individuals have either been approved or denied SSI, in spite of early January applications. Even in cases where eligibility in terms of disability has already been established under Social Security disability, determinations and benefits are not forthcoming. The local offices of the Social Security Administration apparently are just as confused and unclear over the changing nature of the program guidelines.

2. A second problem concerns the subject of "student status." For example, if a person of age 18, applied December or earlier, he would be eligible for SSI benefits by virtue of grandfathering from A.D., no matter what the parents' circumstances. However, an 18 year old who applied after January 1, the effective date of SSI, must choose between financial benefits or education programs unless that disabled person's parents' income and resources are nil. If a person selects "student status", the present guidelines extend the dependency of the handicapped adult until age 22, unless they keep that person out of school programs. All this is understood.

3. Similar to the problem of "student status" concerns the *levels* of *assistance*. Under the Aid to Disabled Program, an individual living in a room and board situation received $128 per month assistance. However, since January 1, a person living in the household of another gets $100 per month, or one-third *less* than Michigan's $160 standard for independent living, as well as less than that of the old program.

In Michigan, most of the severely retarded are in this situation, and need the most care. If parents, or others keep this type of individual out of an institution or nursing home, they are rewarded with less than enough to meet actual room and board costs. When the person who can live independently gets $160 per month, and institutions $800 per month—$160 does not make much sense.

4. A serious problem arises out of definitions for "contributed income". Any services or assistance provided to individuals from private citizens or nongovernmental agencies is to be considered as income and deducted from payments. Similarly, previous support in a quarter, such as the family who paid as long as they could in a family group for their adult son, and applies for SSI for him, will have their previous support to him counted and his payments reduced by that amount. His payments are reduced even if they can no longer contribute and do not have available replacement funds.

5. The placement of persons out-of-State has virtually *stopped* in Michigan. Home operators, apparently, are unwilling to wait three to six months to get paid for clients in their home especially since they might never get paid at all.

SSI cannot, under their rules pass on a request for disability determination unless they determine financial eligibility first. A person in an institution, further, is not eligible. Therefore, until a person is living in a home, he cannot be approved financially and submitted for disability determination. Only those who can afford to pay privately for their housing and care are being placed since January 1.

6. Apparently, federal guidelines have cut Medicaid eligibility for those who have other than SSI income. Formerly, a person with an income of less than $240 per month was eligible for medical assistance if they met other eligibility standards. That maximum has been cut to $160 per month. Considering the fantastic increase in living and medical costs. This most certainly is a step backwards.

7. The question of "sheltered workshop" employment has also been raised. Apparently, the ability of a client to perform minimum sheltered workshop activities is being used as proof that he is not disabled, though to date neither regulations or guidelines have been issued that address this concern.

At the same time, I asked the General Accounting Office to begin an investigation into SSI's problems and I am pleased to report that GAO investigators, with whom I met last week, believe that progress is being made to correct computer problems and administrative difficulties. The GAO, however, will continue to monitor the program. I have also received a letter from Chairman Wilbur Mills in regard to my request for the Ways and Means Committee to consider overnight hearings. Chairman Mills responded on June 25 by letter, stating in part that his staff—

Has been keeping closely in touch with developments and there, undoubtedly, are deficiencies and rough spots which vary with individual states. I think that both the staff and the Social Security Administration feel that the overriding problem at this time is to get the new application load under control and the checks flowing to those persons that were eligible under existing law.

The Committee schedule for the weeks ahead is a busy one and I am not in a position to make a commitment to hold oversight hearings. However, your letter will be kept available for the benefit of the committee when it has an opportunity to consider this matter.

It is quite apparent, Mr. Speaker, that both Secretary Weinberger and the Social Security Administration are making a full scale effort to bring the problems under control. I have been very pleased by the cooperation of HEW and the SSA. Some of the problems appear to be not of their doing. Changes in the law have tended to impact differently on different States. In addition, changes subsequent to passage of H.R. 1 have caused SSA to revise and update the computer programing. This program, which has been called the most massive social program undertaken by the Federal Government, will no doubt continue to have implementation problems. But I am encouraged by progress to date in my own district and I wish at this point in the RECORD to print the entire letter of Secretary Weinberger to me dealing with the complaints raised in my letter of May 30.

THE SECRETARY OF HEALTH,
EDUCATION, AND WELFARE,
Washington, D.C., July 11, 1974.

Honorable MARVIN L. ESCH,
House of Representatives
Washington, D.C.

DEAR MR. ESCH: This refers to your letter of May 30 and your recent meeting with Mr. Stephen Kurzman, Assistant Secretary for Legislation, DHEW, and Mr. Arthur E. Hess, Deputy Commissioner of Social Security, about the supplemental security income program. I refer also to your letter to Mr. Sumner G. Whittier, Director, Bureau of Supplemental Security Income.

Mr. Hess has assured you of our great concern for the well-being of the aged, blind, and disabled especially during the transition through which we are going. Although the subjects in your letter were addressed at the meeting with Mr. Hess, I am glad to have this opportunity to clear up any misunderstandings or misgivings you may have about the implementation effort.

You have made a very strong point about the failure of SSA to develop regulations and instructions, particularly in regard to the definition of student. The regulations have been issued, it is true, piecemeal, as they were ready. The most important issuances—those concerning State agreements—were issued in August 1973 and all supplemental security income regulations were out in interim form by mid-February 1974. Many of the supplemental security income regulations follow closely established social security insurance program regulations. Instructions to be used by local SSA office personnel in the adjudication of claims have been available since late 1973, including guides for handling claims from disabled young adults (ages 18 to 22) who are attending training schools.

We are concerned that there has been confusion about the status of these disabled young people under the supplemental security income program. We have learned that under the previous aid to the disabled program in Michigan, young people age 18 or older in schools for the mentally impaired, were considered adults or independent and were eligible for aid to disabled adults. The SSI law, however, says that a parent's income must be deemed available to an adult child ages 18 to 21 who can be considered to be living in the same household with his parent and who is a student regularly attending school, college or university, or a course of vocational or technical training to prepare him for gainful employment. This provision applies to both the young adults who were grandfathered, as well as to those disabled young adults who apply under the new program.

The confusion that has arisen in the minds of the parents of these children grows more out of a change in the way the old and the new program determined "need" than a lack

of understanding or formal instructions on the part of SSA's local offices.

Once the child reaches age 21, parental income cannot be deemed to him. Instead he is treated like any other eligible adult. If he is living with his parents or in the household of another, the basic Federal benefit would be reduced by one-third. If he is residing at a school, his payment would be reduced by the value of the support and maintenance provided by the school for which he, himself, does not pay.

The intent of the law was to relieve the parents, even though they might have adequate incomes, of total lifelong financial responsibility by making the "child" an eligible individual in his own right at age 18 or, if additional time were required to obtain training adequate for self-support, at age 21.

Knowing that many disabled children might be receiving education or training in facilities that would be classified as public institutions, the regulations specifically exempt such children from the statutory bar to eligibility for an inmate of a public institution. The child living at home and attending school under the State's public education system, or going to a private school, is considered still basically dependent on his parents' income and that income is deemed to be available for the child's use.

I would, at this point, like to address, in order, the seven areas of concern you have raised, with the exception of number two which we have just discussed.

1. From January through May 1974, the Michigan disability determination unit processed 13,151 claims. About two-thirds of these resulted in favorable determinations. As of the end of May there were 4,116 claims pending, this includes new claims and those for which additional medical evidence is necessary. The median processing time for cases in the Michigan State agency is 33 days. This is lower than the national median time. On the whole, the disability determination unit is in good shape. There are plans to obtain additional space and staff so that they will be able to further improve their performance.

3. The law establishes the amount of the Federal benefit at $140 for an individual and $219 for an eligible couple. When an eligible individual lives in the household of another, the law requires that his Federal payment be reduced by one-third. This provision takes into account the value of in-kind support and maintenance the individual receives in this kind of setting. The States may, at their option, add to the Federal payment amount and Michigan decided to supplement the benefit of people who reside in the household of another by $13. Of course, people who were receiving payments under one of the three former matched fund programs are assured receiving the same level of income they received in December 1973.

4. All income must be considered in determining the amount of a person's supplemental security income payments. Certain kinds of income, such as State assistance payments, may be disregarded. Support and maintenance payments made by parents for institutionalized children would, under present interpretation, be counted as unearned income and, after disregarding the first $20 a month, would cause a dollar-for-dollar reduction in the amount of the supplemental security income payment. However, such payments received in the quarter before the quarter of eligibility would not be counted. It must be added, though, that even though no one pays for the child's support and maintenance in an institution, the fact that he is receiving the care and that the care has value must be considered.

5. You describe a situation where an otherwise eligible individual is an inmate of a public institution and thus statutorily precluded from receiving any supplemental security income payments. Your concern is for the inmate who could benefit from placement in a community setting, but placement requires an assessment of the income from all sources which may be available for the individual's support outside the institution. Up to April, because of pending workloads in the State disability determination units, SSA was not accepting applications from inmates of public institutions because no payments were possible. You will be happy to know that in recognition of the importance of value of the out-of-institution placement, SSA has modified its policy. The institution will screen candidates for release. In those cases where eligibility seems probable and release is imminent, the local office will take an application and expedite the determination. Coordinative efforts are made to assure that the receipt of payment and the release to a community setting coincide.

6. In the area of Medicaid eligibility, please understand that, although Michigan has adopted the title XVI definitions of age, blindness, and disability, the State is free to establish income limits for each of these three categories for Medicaid eligibility purposes. The Federal law sets a ceiling above which the State cannot go; this ceiling is set at 300 percent of the basic Federal supplemental security income payment.

7. It is recognized that impaired individuals engaged in sheltered employment are generally less productive than unimpaired workers in commercial employment and that typically, they are limited to lower than average earnings in a sheltered environment where their handicaps are tolerated to a degree not found in outside employment. For this reason, when handicapped workers in sheltered employment have earnings of $146 or less per month, it will be presumed that they are not engaged in substantial gainful activity without regard to whether the work is comparable to that of unimpaired workers. Similarly, if average monthly earnings are over $146, the evaluation guides specifically caution the need to fully consider the possibility of a subsidy. However, the fact that an organization hiring handicapped individuals receives a subsidy, would not necessarily establish that a particular employee is being paid a subsidy. Whether the work of a particular individual constitutes substantial gainful activity must be determined by the individual's productivity rather than by the financial condition or motivation of the employer. Moreover, to completely exempt employees of sheltered workshops from the work provisions would be unfair to similarly impaired individuals who derive income from commercial employment. These are long standing principles of policy under the social security disability income program and are equally applicable to individuals under the supplemental security income program.

Please let me assure you, again, of our dedication to seeing that the new program's benefits reach every eligible individual. I regret that misunderstandings or doubts on this score have arisen between us. I welcome any further questions or comments you may have.

Sincerely,

CASPAR W. WEINBERGER,
Secretary.

INTRODUCTION OF BILLS CONCERNING THE MILITARY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Virginia (Mr. PARRIS) is recognized for 5 minutes.

Mr. PARRIS. Mr. Speaker, I am today introducing two bills which I believe are of considerable importance to the military community, and particularly to those who are retired or are contemplating retirement in the near future.

There is no question that under the current retirement program for former members of the armed services, a number of injustices exist. Certainly the most glaring of these is the decision of Congress to repeal specific provisions of the United States Code which entitled uniformed services personnel to retired pay based upon current active duty pay scales. To correct this injustice, in the first session of this Congress I introduced my own bill—H.R. 7886—and later joined with my distinguished colleague from California (Mr. WILSON) in sponsoring H.R. 14082.

The first of the two bills which I am introducing today would amend the survivor benefit plan provided for under title 10, United States Code, to reduce the existing 2-year marriage requirement to a 1-year requirement.

Under existing law, any spouse married to a member of the armed services at the time of retirement, regardless of marriage duration, is entitled to a survivor's annuity. However, when a member of the Armed Forces dies in service or marries after retirement, then the spouse to receive annuities must meet a 2-year marriage requirement or be parent of a child by that marriage. This 2-year marriage requirement was intended to protect against so-called deathbed marriages.

As my colleagues are undoubtedly aware, the military survivor benefits plan is closely modeled after the surviving spouse civil service retirement plan. The recently enacted Public Law 93–260 changed civil service retirement law to permit the widow or widower of an annuitant who dies in service or marries after retirement to receive annuities if she or he was married to the annuitant for at least 1 year. In addition, over the last decade other Government-sponsored systems, including the veterans' program and social security, have liberalized similar marriage requirements, reducing them to 1 year or less in many cases.

I strongly believe that in view of these recent developments with the civil service and other retirement plans, it is high time to take action to liberalize the military survivor benefit plan in the same fashion.

In addition, I am also introducing legislation which would amend the survivor benefit plan to prohibit reduction in retired or retainer pay in cases where the beneficiary predeceases the retiree.

A little-known fact is that under existing law, a military widow does not automatically receive a pension when her husband dies. On the contrary, at the time of retirement, a military retiree must either elect to have his retired pay reduced to provide an annuity for his surviving spouse in the event he should predecease her, or he may choose to deny his spouse entitlement to a survivor's annuity, in which case his retired pay would not be reduced. If the married employee decides to accept a reduced annuity with survivor benefit, his decision to do so is irrevocable, and the reduction continues in effect regardless of whether his spouse predeceases him.

The enactment of my bill would allow

the restoration of full retired pay to a retiree participating in the survivor benefit plan should he be predeceased by his spouse. Full retired pay would commence 1 month after the month in which his spouse's death occurred, and would continue until the retiree should elect to again participate in the survivor benefit plan by virtue of remarriage.

A comparable liberalization of this same aspect of the civil service retirement plan is included in S. 628, as adopted by the Senate. That bill is now in conference committee. In view of current congressional action on this aspect of the civil service plan, I feel it appropriate for the House and Senate Armed Services Committees to take action on the survivor benefits plan, to bring it more in line with that of the civil service.

Strong support for both these bills has been demonstrated by military retirees who reside in the Eighth Congressional District of Virginia, and I am sure the remainder of our Nation's military retirees are equally concerned about the 2-year marriage requirement and the "pay forever" aspects of the survivor benefit plan. I would urge my colleagues in leadership positions to give favorable consideration to both these bills in the immediate future.

THE NATCHEZ TRACE PARKWAY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Tennessee (Mr. BEARD) is recognized for 5 minutes.

Mr. BEARD. Mr. Speaker, the Natchez Trace is one of the most historic routes in the United States. In its early days, it was little more than a wide path cut through deep woods in what is now Tennessee and Mississippi. Later, as these territories were more heavily settled, it became the primary road in the region, linking Nashville, Tenn., with the Mississippi River at Natchez, Miss.

For some time, Mr. Speaker, there has been an ongoing project to complete the Natchez Trace Parkway, which, when completed, will be a scenic, 445-mile route from Nashville to Natchez, through one of the most beautiful and historic areas of our country.

The problem, as in so many cases, has been funding. In an attempt to remedy this situation, I am today introducing along with my good friend and colleague, DAVID BOWEN, legislation which will provide moneys for parkways from the Federal Highway Trust Fund and should help move the Natchez Trace Parkway to swift completion.

This bill is similar to that introduced in the other body by Senator JAMES O. EASTLAND; the National Park Service and the Interior Department have pledged to give the Natchez Trace top priority should these bills become law. It is my hope that we will see quick congressional action in this area.

CALL FOR LOBBYING CURB

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. RAILSBACK) is recognized for 5 minutes.

Mr. RAILSBACK. Mr. Speaker, I am today introducing with my colleagues WAYNE OWENS and DON MITCHELL, The Public Disclosure of Lobbying Act of 1974." Watergate has dramatized several lobbying abuses and underscored the serious need for corrective legislative action. I hope that when the impeachment hearings are completed that the House Judiciary Committee will take a long, hard look at the need for lobbying reform, and consider recommending a bill similar to this one. Our country can ill-afford more ITT and milk fund scandals. For the protection of the public interest, Government officials, and even the lobbyists themselves, comprehensive lobbying reform legislation must be enacted.

The efforts of organized groups to influence government policy is an inseparable part of the American political process. Lobbying is protected by the Constitution's guarantee of free speech and as an exercise of the right to petition for a redress of grievances. Today, hundreds of interest groups attempt to make their views known at all levels of government. These groups are commercial, industrial, labor, agricultural, racial, ethnic, religious—virtually every facet of life. Even agencies of one branch of Government lobby other branches. Such groups often provide valuable information to public officials, and have an important role in shaping policy. They inform the legislative and executive branches how various Government programs are working, where adjustments need to be made, and what injustices should be remedied.

Unfortunately, this constitutionally guaranteed right has in the view of many Americans been perverted into a sordid picture of lobbyists as "sleazy, under-the-table operators." Such descriptions are unfair to the vast majority of lobbyists. But, unless the activities of all lobbyists are brought out into the open, the secrecy which protects the unsavory conduct of a few will condemn the reputation of all.

As far back as the turn of the century, Congress tried to enact lobby reform laws. It was not very successful until 1946 when the Lobby Reform Act was passed. Although this legislation was a step in the right direction, it was filled with loopholes and ambiguities which allowed many organizations to escape coverage under the bill. One giant loophole was created when the Supreme Court in 1954 declared the Lobbying Act applicable only to individuals or organizations whose principal purpose is to influence legislation. Quite obviously, many organizations have been able to avoid compliance, because their lobbying activities, while substantial, are simply not their principal purpose. For example, one organization spent over $2 million one year on what are generally considered lobbying activities, but did not even have to file a lobbying report.

Another glaring deficiency of the 1946 act is the fact that it applies only to the legislative branch. More money is often spent at the executive branch, however, and, as the Milk Fund and ITT cases imply, abuses can occur.

The bill we are introducing today, the Public Disclosure of Lobbying Act of 1974, is based on the premise that the activities of those who would influence public policy should be open to inspection by the public. The bill is not designed to halt or even curtail lobbying of the legislative and executive branches of Government. Our intent is just to bring lobbying out into the open. The legislation will insure that public officials and citizens alike will be able to determine who is seeking to influence the Government.

The bill defines a lobbyist as any person who attempts to influence Government policy and who receives or makes an expenditure of $250 or more during a quarterly filing period for that purpose. The intent of the bill is that anyone who spends or receives a significant amount of money for lobbying will have to report their activities and this information will be for public knowledge. An independent Federal Lobbying Disclosure Commission is set up to monitor the activities of lobbyists. The Commission will review the lobbyists notice of representation—which they are required to file no later than 15 days after first becoming a lobbyist—and the various records lobbyists are required to submit under our bill. For the first time, control over lobbying is extended to lobbyists who operate before the executive branch.

Mr. Speaker, it's been nearly 30 years since Congress passed an act requiring information about lobbying activities. In each of these years, there have been questions raised about the ways certain lobbyists operate. The present law has proved totally incapable of curbing lobbying excesses. The era of Watergate has eroded America's confidence in our system of Government, and lobbying activities are partially to blame. Congress, in its aftermath, can do much to restore it by passing effective and far-reaching legislation such as lobbying reform.

I urge the immediate and favorable consideration of the Public Disclosure of Lobbying Act of 1974. It is fully supported by Common Cause and on August 1 we will reintroduce the legislation with additional cosponsors.

DAIRY IMPORT COUNTERVAILING DUTY DEVELOPMENTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota (Mr. QUIE) is recognized for 10 minutes.

Mr. QUIE. Mr. Speaker, on February 20, 1974, I introduced H.R. 12936, to require the Secretary of the Treasury to determine whether export subsidies are being paid on dairy products imported into the United States. Passage of this legislation would then force the Secretary to carry out present law requiring the imposition of countervailing duties when he finds that such export subsidies are being paid on foreign dairy products shipped into this country.

I am very pleased that a stipulation has been agreed upon in the case of National Milk Producers Federation against

the Secretary of the Treasury. Under the terms of the stipulation, the Secretary of the Treasury has agreed to impose countervailing duties upon imports of cheese from the European Community, if export subsidies are reimposed on cheeses. The stipulation covers a period of 120 days.

Perhaps the most significant thing about this stipulation is that the Treasury Department recognizes that export subsidies had been paid on cheese imports. In fact, the European Community suspended the payment of these subsidies.

American dairy producers cannot compete with subsidized European production. To give you some idea of the subsidies which have been paid, the European Community offered a subsidy of 18 cents per pound on cheddar cheese exported to this country after February 15. Prior to that date, it was 31.7 cents per pound. The subsidy on Swiss cheese was set on February 15 at 33.8 cents per pound.

As indicated in the stipulation, both of these subsidies have been temporarily suspended. I am most hopeful that the court suit will resolve this problem. If not passage of my bill will require the Secretary of the Treasury to carry out the countervailing duties statute.

THE PUBLIC DISCLOSURE OF LOBBYING ACT OF 1974

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Utah (Mr. OWENS) is recognized for 20 minutes.

Mr. OWENS. Mr. Speaker, I am introducing today, along with the gentleman from Illinois (Mr. RAILSBACK) and the gentleman from New York (Mr. MITCHELL), the Public Disclosure of Lobbying Act of 1974.

The tragic revelations of the past 18 months listing campaign transgressions and abuse of public office have reinforced the principle that the people's business is best conducted in public view. This has stimulated support for a variety of congressional and campaign reform measures which have long been required to open, modernize, and improve Government performance.

The lobby disclosure proposal I introduce today is a necessary addition to this series of reforms. Opening the closed doors of committee meetings, revealing personal financial status, and disclosing all campaign contributions will not tell the full story of the public's business. We must also make public the substantial efforts and interest of organized lobbies.

As an exercise of the right to petition for "a redress of grievances," lobbying is sanctioned by the first amendment to the Constitution. Lobbying provides a legitimate means for interest group representation at the national level. Lobbyists inform the legislative and executive branches what their clients are thinking, how Government programs are working and where adjustments need to be made and injustices remedied.

Yet in the eyes of most people, lobbying is a vulgar activity practiced by means of secret payoffs, under-the-table deals, and slick con jobs. The basic problem is that lobbies to an appreciable degree operate in secret.

When an organization communicates openly, even expensively, it is exercising an important right and performing a necessary function. But when a group lobbies secretly, concealing its financial sources, and disguising the origin of its messages, then it is abusing that right and undermining that function. For public officials to respond in an informed and appropriate way to the conflicting demands on them, they must know who is making those demands and why.

Congress has long recognized the need for lobby disclosure, but the inadequacy of the Federal Regulation of Lobbying Act of 1946 is the main reason the public lacks information about lobbying. The act gives the impression that lobbying is under some form of public scrutiny, while in fact there is very little. Nearly all experts on the subject believe there is more lobbying today—not less. But less is reported. Only half as much spending is reported by lobby groups today as was reported in 1950.

The 1946 lobby disclosure law covers only those lobbyists whose "principal purpose" is to influence legislation. Many organizations simply state that their principal purpose is something else.

There are other flaws. No disclosure of grassroots lobbying, for example, stimulating letter writing campaigns, is required. In addition, the current law only applies to lobbying of the legislative branch, although some of the most important lobbying today is practiced on the executive branch agencies and departments. The law applies only to those who "solicit, collect, or receive" money for lobbying but does not require a record of how the money is spent.

No clear-cut responsibility is assigned for compiling and disseminating the disclosure information which is reported. And the law has been too vague to be effectively enforced. In its 20-year lifespan, the law has produced only one successful prosecution, and that occurred when the defendants pleaded guilty.

To illustrate the inadequacy of the 1946 act, the Association of American Railroads during the first 3 months of 1972 mounted a million dollar public relations campaign to promote the Surface Transportation Act. Under the Lobbying Act of 1946, only $4,972.12 was reported. The National Rifle Association, one of the most active lobbies, reported lobbying expenditures of $1,155.03 during the entire 92d Congress. In 1971 the El Paso Natural Gas Co., spent $893,862 "for purposes of influencing public opinion," but made no report at all under the Lobbying Act. The three full-time lobbyists of the National Association of Manufacturers listed expenditures of only $6,320 in 1972. Some large lobbies are not even registered because they claim that influencing legislation is not their "principal purpose."

I do not suggest that these organizations have acted wrongly. They are expected and entitled to represent their interests before the Government and to expand large sums of money in the effort. But the public and its officials are entitled to know what is being spent and for what purposes.

Full disclosure of lobbying activities would benefit both private citizens and public officials. Private citizens would better understand the nature of special interest pressures and would be better equipped to hold public officials accountable for their response to these pressures. Public officials would find it easier to evaluate lobbying pressures and put them in a better perspective.

In the words of Chief Justice Warren:

> Present-day legislative complexities are such that the individual members of Congress cannot be expected to explore the myriad pressures to which they are regularly subjected. Yet full realization of the American ideal of government by elected representatives depends to no small extent on their ability to properly evaluate such pressures. Otherwise, the voice of the people may all too easily be drowned out by the voice of special interest groups seeking favored treatment while masquerading as proponents of the public weal. This is the evil which the lobbying act was designed to prevent.
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> Toward that end, Congress has not sought to prohibit these pressures. It has merely provided for a modicum of information from those who for hire attempt to influence legislation or who collect or spend funds for that purpose.

The problem of secrecy can be dealt with only through clear and exacting legislation requiring disclosure of how much lobbies are spending, whose money they are spending, and how they are spending it. The principle of open government, of decisionmaking processes that are visible and responsible, requires that lobbying not be a secretive affair. My proposal is based on the realistic premise that certain undesirable pressure activities could be controlled better by publicity than by prohibition.

Under provisions of this bill, the interested official and the interested citizen would be able to know who is pressuring the Government, for what ends, and by what means. The bill provides for:

1. AN EXPANDED DEFINITION OF LOBBYING AND LOBBYIST

These definitions are crucial elements of the bill:

SEC. 2(9). Lobbying means a communication or the solicitation or employment of another to make a communication with a Federal officer or employee in order to influence the policymaking process, but does not include—

(A) an appearance before a congressional committee, subcommittee, or joint committee, or the submission of a written statement thereto;

(B) any communication or solicitation by a Federal officer or employee; or

(C) except with respect to a publication of a voluntary membership organization, any communication or solicitation through the distribution in the normal course of business of any news, editorial view, letter to an editor, advertising, or like matter by—

(1) a periodical distributed to the general public;

(2) radio or television broadcast; or

(3) a book publisher;"

SEC. 2(10). "Lobbyist" means, with respect to any quarterly filing period, any person who engages in lobbying during that period and who—

(A) receives income of $250 or more for such lobbying during that period, whether

such income is the prorated portion of total income attributable to that lobbying, or is received specifically for the lobbying; or

(B) makes an expenditure of $250 or more, excluding travel expenses, for lobbying during that period.

2. COMPREHENSIVE DISCLOSURE REQUIREMENTS

Each lobbyist would disclose who he is lobbying for, how much he is being paid and how much he is spending for lobbying, what legislative or executive action he is attempting to influence and which public officials he has contacted. Those who employ lobbyists would disclose comparable information. Disclosure would be filed through registration forms and quarterly reports.

3. A LOBBYING DISCLOSURE COMMISSION

The bill establishes an independent, six-member commission to administer and enforce the program. It is authorized to investigate failure to comply with the act, to initiate court actions to enforce the act, and to provide regulations. The commission's duties include making information filed with it available for public inspection and compiling and summarizing this information in periodic reports.

Disclosure is the most suitable control over lobbying—lobby laws should identify pressures, not restrict them. My bill would not make lobbying activities illegal, but it would require that they be pursued in the open. By demonstrating that lobbying on a large scale can take place honestly and openly, it would restore some dignity to the ancient and necessary practice of petitioning one's government, and it would increase respect for the process by which Congress and the executive branch receive information and make decisions.

I urge my colleagues in the House and particularly members of the Judiciary Committee to give this proposal their serious consideration.

LET US NOT REVERSE A HEALTHY TREND

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ROSTENKOWSKI) is recognized for 5 minutes.

Mr. ROSTENKOWSKI. Mr. Speaker, in the past two Congresses, considerable progress has been made in assisting States with their mounting financial problems. In the 92d Congress, a monumental revenue sharing package was enacted specifically to allow States to hold the line on their taxes while they met the constantly increasing demand for services.

It is obvious that the problems that revenue sharing was designed to alleviate, are most acute in our urbanized, industrial States. Their sharp population increase in the 1960's forced these States to search for many new methods to finance their skyrocketing State budgets. For many of these States, the answer became a lottery of some type. Since the enactment of the New Hampshire lottery in March of 1964, a dozen States have followed suit in an attempt to raise money for education, for health care, and for distribution to the various cities and towns under their jurisdiction.

This month, my own State of Illinois will commence ticket sales for its first lottery drawing to be held in early August. Revenues raised in the Illinois lottery will be used to help balance the budget of a State that has been particularly hard hit by an increased demand for State services. It is expected that in the first year alone, $60 million will be raised for this purpose.

In light of these new developments in State financing, I was greatly disturbed to learn that the Internal Revenue Service presently plans to revive a relatively obscure excise tax provision to impose a 10-percent excise tax on the gross receipt of all lottery revenues, except those lotteries in which the ultimate winner is determined by a horserace.

This narrow exception was enacted in 1964 when New Hampshire commenced its lottery for education. Such an excise tax does little but discourage States from embarking on such innovative methods to solve their own problems. In addition, we must remember that present law also requires that all lottery winnings be included as income in the year in which they are received—so, lottery receipts are already quite heavily taxed at the Federal level.

It is my understanding that while the Internal Revenue Service feels obligated to enforce the excise tax, it would not object to congressional legislation to relieve them of this obligation. I believe that the legislation which I am introducing today to exempt from the excise tax, State-run lotteries conducted for the benefit of the State and its residents, will solve the problem. It will relieve the harsh impact of double taxation which not only would deplete the financial return to the State, but would also discourage other States from introducing lotteries to better their financial needs.

AMENDMENT TO H.R. 11500

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota (Mr. FRASER) is recognized for 5 minutes.

Mr. FRASER. Mr. Speaker, at the appropriate time I will offer an amendment to H.R. 11500.

The purpose of my amendment is to prohibit surface mining of coal in areas where average annual rainfall is less than 10 inches.

The National Academy of Sciences has determined that 10 inches of annual rainfall is the minimum necessary for successful reclamation of land that has been strip-mined.

Strip mining in this country has left unreclaimed a land area larger than the State of Delaware. Such mining must be put under strict controls. Reclamation must be required where possible and strip mining banned where reclamation clearly is not possible.

In areas receiving less than 10 inches average annual rainfall, successful reclamation is not possible. My amendment would prohibit strip mining in such areas.

This amendment, which follows, is set forth here to qualify for the necessary time to present it to the House:

AMENDMENT TO H.R. 11500, AS REPORTED

Page 172, line 4, strike the word "and" and insert therein the following subsection:

"(12) the area or region in which the mining is to take place has an annual average precipitation of at least ten inches; and"

Renumber the following subsections accordingly.

DEPARTMENT OF STATE OPPOSED TO AMERICAN BUSINESSMEN PARTICIPATION IN "KRIMTEKHNIKA"

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. VANIK) is recognized for 5 minutes.

Mr. VANIK. Mr. Speaker, next month, there will be a trade fair held in Moscow to display the latest in the world's police equipment. The probable buyers of this equipment will be the Soviet State Police and the police of other Eastern European nations.

It appears that a number of American companies will be attending this trade fair. I believe it is unconscionable for these sophisticated police items to be sold to police state societies. On July 1, I wrote to the Secretary of State concerning American involvement in the "Krimtekhnika" Exposition.

Today, I received the following letter from the Department. As the letter indicates—

Secretary Kissinger has asked the Department of Commerce to place the police equipment categories under additional [export] controls.

Mr. Speaker, I urge the Secretary of Commerce to act immediately to prevent these sophisticated police items from being sold in the Soviet Union and certain other countries. It would be immoral for tools of oppression used in the Soviet Union to be stamped "Made in America."

The Department's letter follows:

DEPARTMENT OF STATE,
Washington, D.C., July 18, 1974.

HON. CHARLES A. VANIK,
House of Representatives,
Washington, D.C.

DEAR MR. VANIK: The Secretary has asked me to reply to your letter of July 1, on the Soviet trade exhibition of criminology equipment, "Krimtekhnika," which is scheduled to be held in Moscow August 14–28. We understand that some American manufacturers of this type of equipment plan to exhibit privately at "Krimtekhnika." There has been no US governmental encouragement of US participation in this exhibition.

With regard to types of police equipment which could conceivably be used to suppress those persons in the Soviet Union who are striving to exercise basic human rights, as well as rights guaranteed them under the Soviet constitution, we would, of course, not promote sales to the Soviet Union and would prevent such sales whenever it is legally possible to do so. There are two mechanisms by which such sales might be controlled: the Munitions Control Regulations (Section 414, Mutual Security Act of 1954), administered by the Department of State, and the regulations under the Export Administration Act of 1969, as amended, which is administered by the Department of Commerce.

Firearms, explosives of all types, and mace would be considered for export under the terms of the Munitions Control Regulations. The Department of State has not received application for the export of munitions-

controlled items for display at the "Krimtekhnika" exhibition, and would not approve such applications if any are received.

One aim of the Export Administration Act is the establishment of strict control over the export to Communist countries of items which because of their advanced design or possible use might materially contribute to Soviet military capabilities. To the best of our knowledge, no potential exhibitor at "Krimtekhnika" has applied to send items to the exhibition which would fall in this category.

As the export control regulations now stand, there is probably a range of police equipment which could be exported to the Soviet Union or other Communist countries without specific authorization from the Department of Commerce. To ensure that the products of American industry do not contribute to the capability of police agencies in Communist countries to suppress dissent or control the activities of persons seeking to exercise their legitimate rights, Secretary Kissinger has asked the Department of Commerce to place the police equipment categories under additional controls. When this action is taken, exports of police and criminology equipment to Communist countries will be subject to careful review and licensing on a case-by-case basis before sales may be consummated.

The Secretary appreciates your action in bringing this matter to his attention. Please let me know if you feel we may be of further assistance.

Cordially,

LINWOOD HOLTON,
Assistant Secretary for Congressional Relations.

CONVICTED NAZI GOES FREE WHILE PURSUER IS JAILED

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. PODELL) is recognized for 10 minutes.

Mr. PODELL. Mr. Speaker, while Cologne businessman Kurt Lischka, a convicted former Nazi, attends to his daily affairs, Beate Klarsfeld, the woman who sought to bring him to justice, faces a harrowing trial in a West German court. The man, a respectable member of the business community must feel secure now that the woman is in custody. Until the kidnaping attempts, Lischka, one of the cogs in the Nazi machine that had thousands of French Jews wrested from their homes to be deported to hellish Nazi death camps, encountered little prejudice.

True, he was sentenced in absentia to life imprisonment by a French court in 1950. He is, nevertheless, a citizen of West Germany and as such is protected by a West German law stating that war criminals found guilty by a court of one of the three World War II Western Allies may not be tried in German courts for the same crimes. This and similar travesties of justice committed by West German courts have greatly distressed Beate Klarsfeld.

About 1,026 Nazi war criminals were sentenced in absentia by French courts after the war and an estimated 200 of them are still alive and at large in West Germany. Mrs. Klarsfeld, a Berlin-born Frenchwoman, has been sentenced by a West German court to 2 months in prison for her efforts to bring the former Gestapo leader of Paris to justice. This woman who witnessed the "Aktions" the arbitrary arrests at dawn, the herding into cattle cars and the shipments to Auschwitz, cannot sit idly by as the remnants of the gigantic Nazi war machine move about freely as respectable people. She is firm in her conviction that it is of the utmost importance to force the Germans to draw consequences from the past.

In 1968, amid the relative quiescence of the West German regime, Mrs. Klarsfeld, in a highly dramatic move, publicly disclosed Chancellor Kiesinger's Nazi background. She also played a key role in tracking down Klaus Barbie, astutely discovering that he was living under the alias "Klaus Altmann" in Bolivia. Other Germans implicated in the Nazi atrocities have similarly been pursued by Beate Klarsfeld.

Not only have her dealings with the West German legal system in her efforts to have Lischka extradited proved futile, but she has also been forced to endure the long days of hardship of preparing for her trial as well as 2 months incarceration. She feels the whole episode is typical. Commenting on her sentence, she said it showed "the traditional face of German justice which judges those who combat Nazis and is accommodating toward the Nazis themselves." She accused the West German judge of "evading the real problem, that of Nazi war criminals living as free men in West Germany."

While Judge Vikoyorde may have been unresponsive to Mrs. Klarsfeld's case, most members of the courtroom and observers throughout the world were not. Outbursts by Mrs. Klarsfeld's supporters were so frequent that the judge ordered the courtroom cleared. The support and sympathy that this woman has elicited as she faced the Cologne court has focused world attention on a legal loophole that has allowed Nazis who committed war crimes in occupied France to escape prosecution.

Thus, on July 9, French President Valery Giscard d'Estaing received an assurance from the West German Chancellor that the loophole would be closed. It involves an amendment to the Franco-German extradition treaty, which has still to be ratified by the Bonn parliament, that could allow war criminals to be retired in West Germany, even after they have been tried, as Lischka was, in France.

And so, Lischka remains free as Mrs. Klarsfeld faces imprisonment. The judge has rejected the prosecution's recommendation that she be given a 6-month suspended sentence. Without an actual prison term, he said she might be tempted to attempt new illegal acts.

THE ALL VOLUNTEER ARMY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. LEGGETT) is recognized for 5 minutes.

Mr. LEGGETT. Mr. Speaker, from the outset of the all volunteer Army idea, I joined with many colleagues in Congress as an enthusiastic supporter. I believe that the Army can sustain itself and the national defense during peacetime strictly with volunteers. This belief, of course, runs contrary to the opposition's concern about the attractiveness of the "military way of life" to our current "do your own thing" generation—a generation to which I myself am rather happily full pledged.

Recently, Bo Callaway, Secretary of the Army, sent out good, timely news about last year's track record under the volunteer system. I find to be quite an achievement what Bo characterizes as preliminary results. As of June 30, 1974, the Army ended its trial year at an authorized strength of 781,600 persons. I share Bo Callaway's enthusiasm that we now have first signs that the all volunteer Army can be a success.

Following are highlights of the fiscal year 1973 all volunteer Army program provided by Secretary Callaway:

Total Strength: We achieved the Congressionally authorized Active Army manpower end strength of 781,600.

Recruiting: We recruited 196,000 men and women this year. In June alone we recruited over 24,000 new soldiers and about 2,000 soldiers with some prior service. Of the 24,000 new soldiers, almost 17,000 (about 70 percent) were high school graduates or the equivalent.

Male: Recruited 165,000 new male soldiers (all true volunteers) which is about 23 percent more than the true volunteers enlisted in FY 73 and about 85 percent of the combined accessions of the other Military Services.

Female: Recruited 15,000 females, 106 percent of our objective and 72 percent more than FY 73.

Prior Service: Recruited over 16,000 prior service men and women, 115 percent of our objective and 18 percent more than in FY 73. These enlistments represent an appreciable dollar savings since the added expense of basic training is avoided.

Congressional Quality Mandate: We achieved these results within the quality guidelines directed by the Congress. Congress directed a minimum of 55 percent high school graduates—the Army achieved 56 percent. Congress directed a minimum of 82 percent of the recruits should be in the upper mental categories (categories I, II, and III)—the Army achieved 82 percent.

Reenlistments: We reenlisted over 58,000 men and women, 108 percent of our objective, and 23 percent more than in FY 73: 22,000 First Term soldiers (135 percent of objective); 36,000 Career soldiers (97 percent of objective).

Combat Arms: We recruited 37,000 new soldiers into the combat arms, one of the most difficult skills for which to get volunteers. One-third of these chose the $2500 combat arms bonus which represents enlistees who are high school graduates, upper mental category personnel, and enlisting for four years.

Training Discharge Program (TDP): Operating under the assumption that, regardless of careful screening, not every young enlistee is temperamentally suited for military life, in September of 1973 we initiated a program which permits discharges during the first 179 days for such cases. Results are encouraging—we are separating about 1700 trainees a month rather than passing them

to units where they would become a burden. This program is for Active Army and Reservists alike. We are optimistic that the program lets us identify unsuitable personnel early. FY 75 loss data from units which receive trainees with the unsuitable enlistees already removed will confirm or refute that optimism.

Disciplinary Trends: Since the beginning of the no-draft era on 1 July 1973, the state of discipline in the Army has improved steadily.

The traditional indicators of discipline—AWOL, desertion, crimes against property—are down.

Crimes of violence have remained essentially the same.

While drug abuse offense rates are up, nearly all of the increase is due to use and/or possession of marijuana. The more dangerous drug offense rate remains stable.

Racial tension, of continuing concern, is generally reduced, giving rise to optimism but not complacency for the future.

In sum, the discipline of the Volunteer Army is good, and getting better in nearly every measurable area.

Delayed Entry Program (DEP): The number of new accessions (male and female) who have signed enlistment contracts in the Army but who will delay entry into active duty while completing high school, waiting for the assignment of their choice or a space in special training schools, or conducting personal business is 3–4,000 enlistments per month higher than similar months in 1973. Currently, we have over 15,000 in the DEP for FY 75 entry to active duty.

Mental and Educational Composition: Within the overall Army we have a higher percentage of high school graduates than a year ago (72.5 percent vs. 71.1 percent) and a lower percentage of the lowest acceptable mental category (18.0 percent vs. 18.1 percent).

Representation: At year end, the minority content of the Active Army was about 21 percent of whom 19 percent are Black. This represents an increase of about 4 percent in minority content since end FY 73. This increase is due primarily to enlistments which ran about 27 percent Black for FY 74, indicating that group's positive perception of the opportunities available in the Army.

Reserve Components: In the Reserve Components, the National Guard ended the year at a strength of about 413,000 or 9 percent above the average paid drill strength authorized. The U.S. Army Reserve ended the year at a strength of about 238,000 or 2 percent above the average paid drill strength authorized. Thus, both components have shown great resiliency in overcoming the disappearance of long waiting lists of recruits—lists that melted when the draft ended. The minority content of the National Guard was 5 percent and of the U.S. Army Reserve was 6 percent, both continuing the steady increase begun three years ago to become more representative.

Readiness: The readiness goal for all major U.S. Army forces is to achieve a combat ready posture. When the last draftee entered the Army, 4 of our 13 divisions were combat ready. Today all 13 divisions are operational and ready for combat.

In my view, the Army's Recruiting Command is to be commended along with the whole Army team. The Army appears to be doing what long-standing institutions find darn near impossible. The Army is changing with the times—providing more specialized attention to the individual's needs and strengths, all within the necessary bounds of military regimentation.

During and after World War II, the Army made important breakthroughs in the areas of personnel management and human behavior and motivation. Army methods became the subject of study and adoption by government and industry alike. I believe similar developments will be forthcoming as the Army moves ahead further with the full volunteer system.

THE THREAT TO MARINE MAMMALS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. DIGGS) is recognized for 15 minutes.

Mr. DIGGS. Mr. Speaker, I would like to insert, for the thoughtful consideration of my colleagues, the following article in the Washington Post of May 23, 1974, which outlines the attempts of a domestic firm to attain a 10-year waiver of the Marine Mammal Protection Act of 1972 from the Commerce Department, thereby allowing it to import sealskins from Namibia. Namibia is the international territory which is illegally administered by South Africa.

Following is the July 17 telegram which I sent to the State and Commerce Departments protesting the importation of sealskins from Namibia, as well as, the proposed visit by a team of Commerce officials to Namibia to inspect the seal harvest there. In order to grant a waiver allowing the importation of sealskins, the Secretary of Commerce must first be satisfied that the killing of baby seals takes place in a humane manner.

THE THREAT TO MARINE MAMMALS

(By Lewis Regenstein)

A recently-enacted U.S. law, designed to protect whales, seals, dolphins, porpoises, sea otters, polar bears, sea lions, walrus, manatees, and dugongs, is in serious danger of being dismantled; and conservationists are now involved in a major struggle to prevent the Marine Mammal Protection Act of 1972 from being crippled beyond repair.

The Marine Mammal Protection Act provides, with a few exceptions, for a general moratorium on the "taking" (killing, capture, wounding, harassing) by U.S. citizens of almost all species of ocean mammals. It also prohibits the import into the U.S. of any furs or other products from these creatures, thus removing much of the economic incentive for other nations to kill them.

However, one of the major flaws in the Marine Mammal Protection Act is that it gives the Secretaries of Commerce and Interior wide discretion to issue individual permits for the taking of sea mammals; and under certain conditions, they can even lift the moratorium completely and allow the resumption of commercial exploitation on any and all of these species.

A major threat to the law is posed by the Fouke (fur) Company, of Greenville, South Carolina, the only large American processor of sealskins.

Fouke is now pressuring the Commerce Department to lift the moratorium on foreign seal imports to allow it to bring in up to 70 thousand sealskins from South Africa each year for the next 10 years. The South African seal kill takes place from June to October, when tens of thousands of baby seals are clubbed on the head, and then stabbed to death with stiletto knives. The baby seals are then slit down the front and the pelt is pealed off.

The law makes it unmistakeably clear that its intention is to put a halt to U.S. involvement in the killing of baby seals. Section 102 of the Act states unequivocally that "it is unlawful to import into the United States any marine mammal if such mammal was nursing at the time of taking, or less than eight months old, whichever occurs later.

Nevertheless, the Commerce Department now seems to be moving towards granting Fouke's current request, to abolish the "moratorium" for 10 years on the import of South African cape seals, even though many of these seals are nursing when they are killed. The Commerce Department's National Oceanic and Atmospheric Administration (NOAA) and its agency, the National Marine Fisheries Service (NMFS), have already prepared a biased and totally unncessary draft Environmental Impact Statement (EIS) on the effect of allowing the import of these sealskins. (However, the statement, curiously, does not point out the ecological dangers of killing off vast numbers of seals each year. This is not surprising in light of the fact that the EIS was drafted largely by several NMFS biologists, who are or have been involved in running NMFS' own seal kill in Alaska, which netted the U.S. Government a profit of $1.8 million in 1973.

Another complicating factor is that much of the seal kill takes place in South-West Africa (Namibia), which the United States, the United Nations and the International Court of Justice consider South Africa to be illegally occupying in violation of international law. This makes it even more difficult for the Secretary of Commerce Frederick Dent, to endorse and approve the South African seal hunt, as the law requires if the moratorium is to be lifted.

In addition to Fouke's permit application, attacks on the Marine Mammal Protection Act are being made from other quarters as well. The state of Alaska is attempting to have the moratorium lifted for that state (which contains most of the resident sea mammals found in the U.S.) to allow the resumption of commercial and "sport," killing of whales, seals, and sea lions (now under the jurisdiction of the Commerce Department) and sea otters, walrus, and even polar bears (now under Interior Department authority).

And the U.S. tuna industry is pushing Commerce to allow it to continue killing over one hundred thousand dolphins (or "porpoises") each year.

If the above applications are granted, it will be the beginning of the end of the law's effectiveness; and the door will be opened to removing protection to additional vulnerable species, such as whales and sea otters, which are of interest to commercial exploiters and other vested interests. At the present time, the decision as to if and when to lift the moratorium for most of the species involved is being made by two Commerce Department officials; Dr. Robert M. White, Administrator of NOAA, and Robert W. Schoning, Director of NMFS. Their decision could well determine the fate of several hundred species of wildlife, whose survival may ultimately hinge on whether or not the Marine Mammal Protection Act remains intact.

[Telegram from Congressman CHARLES C. DIGGS, JR., to Hon. Joseph J. Sisco, Under Secretary of State for Political Affairs, and Honorable Robert M. White, Administrator, National Oceanic and Atmospheric Administration]

Strongly urge that State Department not, repeat not, allow Commerce Department officials travel to Namibia re importation of baby sealskins from Namibia. Stop. Visit would be contrary to 1971 International Court of Jus-

tice advisory opinion on illegal SA administration of Namibia, conclusions of which have been accepted by USG. Stop.

I oppose importation into USA of goods originating in Namibia and secured in collaboration with SAG because such action necessarily requires USG to recognize legality of, and lend support and assistance to such illegal SAG administration. Stop. Must therefore oppose proposed visit to Namibia. Stop. Not further that any official USG delegation in Namibia with permission of SAG conflicts with duey of USA as member of UN to recognize invalidity of SAG actions on behalf of or concerning Namibians. Stop. Such action would seriously damage USG credibility abroad, particularly in majority-ruled nations of Africa, and would also demoralize people of Namibia at critical time when they must count on help of UN member states and, in particular USA. Stop.

Trust State Department will not allow yet another affront to USG dignity. Stop.

NOT OLDTIME ECONOMIC RELIGION—BUT NEW EFFORTS AT EQUITY AND RESTRAINT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Washington (Mr. ADAMS), is recognized for 15 minutes.

Mr. ADAMS. Mr. Speaker, I was very pleased that you took time earlier today so the membership of the House of Representatives could address the problems of our nation's economy. Inflation with recession is the No. 1 concern of all Americans—it is monopolizing people's thoughts because this is destroying any income gains or savings they might ever have had, and threatening many workers with a loss of jobs.

On many occasions during the last 2 years I have spoken in the House about economic problems and possible solutions. I have outlined my beliefs that the administration policies on the budget, impoundment, taxes, agricultural and other Government subsidies, energy deregulation, economic controls and high interest rates are erratic and inequitable. The Nixon administration's "trickle down" economic theories have been dictated by out-of-date Adam Smith economics and are for the benefit of wealthy individuals and corporations to the virtual exclusion of the vast majority of American people.

I have continually urged that administration and the Congress that we cannot use forces that fan the fires of inflation to simply prevent further recession. We take immediate actions to control inflation. In doing this we must be certain to water the economic tree from the bottom, not from the top and then hope that it trickles down, so as to not cause further recession. We must build consumer buying power, break specific commodity bottlenecks, amend tight money policies to provide lower interest rates to areas like housing as opposed to speculative merger borrowing, adopt Federal programs aimed specifically at helping the unemployed, and exercise fiscal restraint.

Itemized, my proposals are:

First. Federal expenditure control;

Second. Tax redistribution;

Third. Price stability;

Fourth. Credit targeting; and

Fifth. Employment opportunities.

KEEPING OUR OWN HOUSE IN ORDER

I have outlined in previous statements my proposals on points 2, 3, 4, and 5. I refer you to my floor statements of April 25, April 29, and July 3 for more detail on those points.

Today, I want to discuss fiscal restraint and why I believe it is imperative for the Congress and the Executive to exercise it.

Under the Nixon administration of the last 5 years, I have watched—incredulous and askance—the President's budget requests exceed first the $200 billion level and then the staggering figure of $305 billion.

Worse still, the budget has gone from a $3.2 billion surplus in the last fiscal year of the Johnson administration to budget deficits in every single fiscal year of the Nixon administration. Those deficits now total $78.2 billion according to the President's own Council of Economic Advisers.

The Congress has tried to exercise some restraint when considering the President's budget requests. For example, over the last 5 years, Congress has lowered overall Federal appropriations below the budget, but this has not affected the noncontrollable expenditures. This has not been enough to balance the budget because the President's deficits have come from reduced revenues and increases in interest payments and defense spending and revenue sharing.

The Congress only controls through the appropriations process about 45 per cent of the entire budget—the rest is spent automatically for trust fund programs, contracts previously obligated, revenue sharing and so on—we have a very definite opportunity to exercise restraint this year during our deliberations on the various appropriations bills. Thus far, the House has passed nine appropriations bills, cutting the President's budget requests by $2.3 billion. Those appropriations bills still to be considered are interior, foreign aid, military construction, and defense which is the largest appropriation of them all.

It seems to me that in the defense appropriation, about $87 billion—more than two and a half times larger than second largest appropriation—for Labor, Health, Education, and Welfare—the Congress ought to be able to cut out some of the expenditures.

The defense appropriations represent roughly 60 percent of the entire amount in Federal expenditures over which Congress has control. That percentage is both enormous and unreasonable at a time when our country is no longer engaged in any major or minor military combat. I do not dispute that we must expect to pay for a strong national defense, however in this "era of peace" there should be no need for increases in defense spending of the magnitude proposed by our "peace seeking" President.

The budget control legislation enacted this year will help us to review more completely the budgets of the future. The new budget process will also help us to alter budget priorities and control Federal expenditures more effectively. However, until our new budget system is set up, we must do whatever we can to try to cut unnecessary and unreasonable Federal expenditures.

TOWARD A BALANCED BUDGET

Controlling Federal expenditures will help us to achieve more of a balance between those expenditures and Government receipts.

Many of my colleagues and many economists are very uneasy about discussing ways to balance the Federal budget. They are strongly wedded to the theory that when the economy needs stimulus, Federal spending can be increased by running a budget deficit rather than by increasing tax revenues. Under those circumstances, balancing the budget means drying up all stimulus and threatening unemployment.

I am fully aware of the dangers of overly restrictive fiscal and monetary policies. I do not favor controlling inflation by creating a recession and its accompanying unemployment.

I do believe, however, that if the stimulus of Federal spending is needed by the economy, we can pay for it without necessarily running a budget deficit.

For example, Treasury Secretary William Simon has admitted that $6 billion of the defense budget is for economic stimulus—to create jobs and thus ease unemployment. However, it takes at least $20,000 to $30,000 worth of defense spending to create one job. Why not either cut out the $6 billion altogether, or put it into domestic programs which create more jobs for less money—areas like education, health, housing, agriculture and transportation.

Alternatively, we could put the money into public service employment. In 1971, the Emergency Employment Act of 1971 was enacted and funded at $1 billion for its first fiscal year 1972. That act made possible nearly 192,675 Federal supported public service jobs for unemployed and underemployed workers in fiscal year 1972, according to the annual report of the Department of Labor on Public Employment. Despite the fact that costs have increased, it is simple to figure that $6 billion for such a program could provide about 1 million jobs.

Balancing the budget is going to entail more than just controlling Federal expenditures. It is going to require sustained, and as income goes up, increased Federal revenues. This is where my proposals for extensive tax reform enter in.

On April 25 and July 3 of this year, I outlined in detail my proposals for tax reform and redistribution. I believe we must provide some relief for the people with fixed, low and moderate incomes who have borne the brunt of inflationary price increases, particularly to the high costs of food, fuel and housing. Such relief should come either in the form of payroll tax reform or alteration of the income tax standard deduction. I do not advocate a net cut but instead a maintaining of tax revenues. I no longer believe that deficit budget of the amounts we are concerned with have that much effect on our trillion dollar economy so we can now afford to use a balanced budget in these next years so we can require the same restraint in the private sector.

Tax revenues can be raised in such areas as elimination of the oil depletion allowance and tax deductions for intangible drilling expenses, elimination of U.S. tax credits for foreign taxes and royalties paid by oil companies, elimination of the asset depreciation range, and elimination of loopholes in the minimum tax law. These reforms are geared to tax at more progressive rates the wealthy individuals and corporations who have long enjoyed virtual freedom from taxation.

You will note that I have not mentioned the investment tax credit and other business tax incentives. I do not believe we need more business incentive tax provisions. Most particularly, I do not believe that more business tax incentives should be provided to "spur industrial expansion." According to the President's Budget Report for Fiscal Year 1975, only 16 percent of all Federal tax revenues come from corporate income taxes. If we narrow that tax base any more, we will open the way for larger budget deficits in the future because Federal tax revenues will not be able to pay for Federal spending.

WATERING THE ECONOMIC TREE AT ITS ROOTS

As many of you know, I have been working with my colleague Congressman HENRY REUSS and other members of the Democratic Steering and Policy Committee on a new economic policy as an alternative to the disastrous policies of the Nixon administration. We have discussed our program with nine eminent economists, all of whom have directed successful economic policies under former administrations.

We have arrived at a consensus and will present our proposal to the Steering and Policy Committee next week for approval.

The Reuss-Adams economic proposal includes the following points:

First. Creation of advanced planning and sensible import, export, subsidy, and market policies to increase supplies and forestall future shortages of scarce materials;

Second. Creation of an independent watchdog agency to monitor the economy, recommend antitrust actions, control excessive price increases and act as a consumer representative;

Third. Control of Federal expenditures;

Fourth. Cushioning the impact of monetary restraint by targeting credit on areas like housing and away from unsound financing of speculative inventories, enterprise acquisition, real estate and foreign exchange speculation—yet still maintaining a responsible monetary policy to limit money growth to check further inflation;

Fifth. A fully supported program of public service employment; and

Sixth. Extensive tax reform and redistribution.

I am hoping that the Democratic Steering and Policy Committee, and ultimately the entire Congress, will support a new economic program along the lines that Congressman REUSS and I have proposed. We must admit to ourselves that inflation is a serious sickness riddling our country. This disease must be checked—not by one or two policies taken to extremes—but by a series of integrated, responsible programs which can gain the support of the American people.

ECONOMIC CRISIS SHOULD BE THOROUGHLY DEBATED

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois, (Mr. MICHEL) is recognized for 15 minutes.

Mr. MICHEL. Mr. Speaker, I regret that our Speaker ran out of time during his special order where I might have engaged in colloquy and dialog with him as did some of the other Members who were privileged to be on the floor at the time. I would certainly commend the Speaker for opening up the discussion and dialog on the state of the economy. My only regret is that it took place at an hour when most of the Members had departed for the weekend for their other responsibilities. Better that we should debate a subject of this kind during the midafternoon period when there might be a much broader representation of Members.

It just occurred to me that on several of the items to which the Speaker alluded I would have several observations to make. We all decry the high interest rates that are currently in vogue, but I would simply pose the question: Are we as the Congress prepared to legislate a rate of 5 or 6 or 7 percent, the kind of interest rate we would much prefer to be paying? I do not think so, but that ought to be a subject of discussion for extensive debate.

I have heard the Speaker make mention of the tremendous unemployment figures and how the country is going from a recession to a depression. The unemployment figures as I recall those most recently announced were at a rate of 5.2 percent. In October of last year when the economy was going full steam our rate of unemployment was 4.6 percent or 4.7 percent. I think here again we have to look at this thing in its proper perspective. In 1960 the rate of unemployment in the Kennedy years was 5.5 percent; in 1961, 6.7 percent; in 1962, 5.5 percent; in 1963, 5.7 percent; and in 1964, when we started really moving into the war, it came down to 5.2 percent, where we are today.

We all have to agree or we should that we can have full employment in this country in wartime. The thing is we have to adjust ourselves to how we can have full employment in peacetime.

The Speaker suggests maybe we ought to create more jobs. In the Labor-Health, Education, and Welfare bill which we had on the floor just a few weeks ago there was provision for 140,000 public service jobs. The cost? It was $1 billion. Do we want to employ an additional million people? Then it seems to me for every additional 150,000 people we have to add $1 billion to the Federal budget.

I heard all the people talk about how we have to hold the expenditures down if we are not prepared to go to the people for another tax increase. I heard the Speaker makes mention of the fact that maybe social security benefits ought to be increased. We have increased the social security benefits by 60 percent in the span of 3 years.

We do not like the $324 billion budget but $29 billion of that increase over last year comes as a result of the enactments of this Congress. We cannot have it both ways.

I would applaud those who said this was one of those things in which the administration and the Congress must work in concert with one another.

And on the budget I am glad to see the discussion with respect to the budget control mechanism authorized by this Congress. I think our minority leader in suggesting maybe we ought to try to move up the date of that 1 year might be suggesting something which would be very good for all of us.

I just looked over some more recent figures. As of July 3 of this year—and while my Appropriations Committee chairman made mention of the fact that so far as appropriation bills up to this point enacted we are holding to budget figures—let us not forget that legislative bills enacted by the Congress that will not be reflected until next year provide for $1.3 billion of additional spending. And pending in the House we have legislative proposals that would add another $2.2 billion.

If we go to the other body they would like to have $5.5 billion of additional spending thrust upon this kind of restricted budget so-called.

I submit that this has got to be one of those subjects in which the Congress gets more and more involved. We have just got to be biting some bullets around here ourselves before we point the finger simply at the administration and decry the costs of food as they are and make no reference to the fact that the first-class clerk in the supermarkets today is making 25 percent more in his union contract than just 9 months ago.

I am not here criticizing those who make a living wage as a result of those increases, but the increases have got to come out of the hides of those of us who purchase because we could not have the supermarkets in business if they were not making profits. The last I read several of them were making in the neighborhood of 1-percent or 1.2 percent profit, which certainly is not unreasonable.

One final argument in conclusion with respect to the wheat sent into the Soviet Union. Again, and I have taken the floor any number of times to point out how ridiculous it is to keep talking about the subsidy so-called for the export of commodities abroad when this Congress was the outfit that legislated the subsidy to encourage exports of additional commodities abroad, we cannot point our fingers downtown when we in the Congress have said we want to have more exports and we provide a subsidy for it.

I just think, Mr. Speaker, that this has been a good opportunity for us to at least air some of these views this afternoon. I would hope in the ensuing weeks we would have occasion to talk about these things in the midafternoon when more Members are present.

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

Mr. MICHEL. I am happy to yield to the gentleman from New York.

Mr. CONABLE. I think the gentleman from Illinois has made some good points. I think it is quite important that we not break down at a time like this into partisan bickering over who is at fault. It can only have a destructive effect on the necessity for public confidence; so I hope the mood that we strike as we continue this dialog, and I do think the dialog is very necessary, one of trying constructively to deal with the very specific problems we know afflict us at this point.

It is said that economics and science work only in hindsight; but it becomes quite imprecise when we look into the future.

We all know public confidence will only be aided by cooperation on the part of the executive and the congressional branches, that both of us have to work together in dealing with these problems. I think that is the mood we should strike.

We can find major agreement on the condition itself. I think if we work at it, instead of engaging in election-year oratory, we can also find constructive steps to take; but certainly no one is going to be served by simply describing and redescribing the problem. I always am amazed at the significance people put on the definition of a recession, as though to discover that we have had two successive quarters with a decline in production was something that should trigger great public reaction.

We all know we have had difficulty of this sort and the issue is not how do we define a recession. The issue is what do we do about it. Certainly concerted action, certainly firm action, certainly something above politics as usual is called for at this time.

I hope this dialog will continue in the most constructive possible frame of reference.

Mr. MICHEL. I certainly appreciate the gentleman's contribution here to wind up our part of this discussion.

I yield back the balance of my time.

SALUTE TO THE CAPTIVE NATIONS

(Mr. KOCH asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. KOCH. Mr. Speaker, it is a pleasure for me to participate in the observance of Captive Nations Week. Congress provided for the commemoration of Captive Nations Week 15 years ago in order to affirm the United States' belief in the values of freedom, national independence, and human rights. Recent events render the commemoration of Captive Nations Week as important today as it was 15 years ago.

In the past few years, United States-Soviet relations have undergone a dramatic change. We have emerged from the era of the cold war and entered the era of détente. Our President has visited Moscow twice in the last 2 years; cultural exchange has increased; trade relations have improved. But despite the welcome relaxation of Soviet-American tensions, the vicious and unconscionable internal repression of Soviet citizens, particularly those engaging in dissent, has not terminated.

A few items demonstrate that while the Soviet Union is establishing more harmonious relations with the United States, it continues to violate the rights of the national groups within its borders. Not only did the Soviet Union violate and end the sovereignty of Latvia, Estonia, Lithuania, the Ukraine, and other states, but it embarked on a campaign to destroy the religious and very cultural identities of these nations captive within its borders. The term "captive nations" is indeed an apt one.

In recent months, I have spoken in this Chamber concerning the courage of Alexandr Solzhenitsyn, Andrei Sakharov, Leonid Plyusch, a Ukrainian intellectual, and Simas Kudirka, a Lithuanian seaman who, unsuccessful in his attempt to flee to the United States, was sentenced to serve a term in a Soviet prison camp. These men are just a few among the many who have risked imprisonment, torture, exile, or even death in their efforts to exercise the right of dissent and free movement which we take for granted in the United States.

Were we to ignore, in our pursuit of détente, the outrageous denial of individual and national rights in the Soviet Union, the United States name as the "land of the free" would be severely tarnished. Our support of the human rights of people throughout the world must be both in word and deed. We can press the U.S.S.R. to provide greater freedoms internally by making economic assistance contingent on such actions. On this occasion of Captive Nations Week, I would like to voice my sympathy and respect for the people living in the Soviet Union who have heroically suffered Soviet oppression in order to exercise their religious and cultural persuasions and their right of dissent. I hope that the American people will demonstrate to the Soviet people our continued adherence to the values of individual liberty and national independence both by honoring the captive nations during Captive Nations Week and by making certain that the U.S.S.R. is made constantly aware that there can be no real détente so long as it continues its oppression of any people, within or without the Soviet Union.

AN INDEPENDENT CYPRUS

(Mr. KOCH asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. KOCH. Mr. Speaker, I am distressed at the position taken by the United States in the Cyprus coup. The fact that we would begin discussions with the Greek officers who displaced Archbishop Makarios by coup d'etat is an outrage. Our position must be contrasted with the emerging position of Great Britain. Prime Minister Harold Wilson and Foreign Secretary James Callaghan made it plain in the House of Commons that Britain supports an independent Cyprus and opposes the subverion of that country by Greek officers acting under the authority of the Greek Government.

Archbishop Makarios stands today much like Haile Selassie stood in 1936 before the League of Nations asking for help. On that occasion, the League of Nations failed in its responsibilities, as did the United States. The United Nations and the United States must not fail in their responsibilities to Cyprus today.

ON THE FDA AND VITAMINS

(Mr. KOCH asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. KOCH. Mr. Speaker, I have been deeply troubled by the possible effects of the recently proposed FDA vitamin-mineral regulations. Tens of thousands of Americans feel strongly that the regulations would pose a serious threat to their well-being. As one who claims no technical expertise in this matter, I have hesitated to criticize the FDA for fear of confusing the issue to the detriment of public health. But experience has also taught me that the experts are not always right. On the issue of the vitamin regulations, as on many other technical questions, the authorities disagree. In such cases the burden falls on lay policymakers such as myself to reach the decision which appears most reasonable on the basis of the facts as we see them.

I recently discussed the vitamin issue with Mr. Milton A. Bass, a law school classmate and an attorney for the vitamin industry. His arguments against the proposed regulations were demanding so I asked him to prepare a memo setting forth his position for comment by FDA Commissioner Alexander Schmidt. I was pleased that Commissioner Schmidt chose to respond in great detail to Mr. Bass' memo.

The exchange of views in Mr. Bass' memo and Dr. Schmidt's letter yields a valuable summary of the relevant issues in the vitamin controversy. It may not resolve the question for those who are undecided; indeed, it has not done so in my case. However, it does bring into sharp focus the opposing views and thus may be of some help to my colleagues in the House. I therefore am introducing the two documents in the RECORD, along with my correspondence with Dr. Schmidt:

HOUSE OF REPRESENTATIVES,
Washington, D.C., May 6, 1974.

ALEXANDER M. SCHMIDT,
Commissioner, Food and Drug Administration, Rockville, Md.

DEAR COMMISSIONER SCHMIDT: You will recall our conversation here at my office in which I expressed concern re the FDA's then proposed regulations concerning the sale of vitamins.

Since speaking with you I met with an old friend, Milton A. Bass, who is the attorney for a segment of the vitamin industry and I

asked him to provide me with a memo setting forth the reasons why he believed the FDA's actions to be arbitrary in this manner.

I'm enclosing his memo which, unless refuted, I find very persuasive and would appreciate your responding in detail to the statements contained therein.

I await your reply with interest.

Sincerely,

EDWARD I. KOCH.

HOUSE OF REPRESENTATIVES,
Washington, D.C., June 27, 1974.

ALEXANDER M. SCHMIDT,
Commissioner, Food and Drug Administration, Rockville, Md.

DEAR COMMISSIONER: A member of my staff spoke with your office today voicing my concern that I had not received a response to the questions posed in my letter of May 6th and the enclosure contained therein. She was told that "the Commissioner likes to go over these things in detail".

While I appreciate the care you are apparently giving this matter (and it certainly deserves that attention, I do believe that since my letter has been in your hands forty-five days and more important, the subject matter has been in your hands for years, a more prompt response on your part is not unwarranted.

The matter is of great concern to my constituents and indeed to millions of Americans. I would appreciate having that response as soon as possible.

Sincerely,

EDWARD I. KOCH.

MEMORANDUM OF MILTON A. BASS, ATTORNEY FOR A SEGMENT OF THE VITAMIN INDUSTRY

VITAMIN REGULATIONS

A great deal of confusion has been created relative to the recent regulations issued by the Food and Drug Administration and the various legislative proposals before Congress involving controls over the sale of vitamin and mineral food supplements.

We can consider the problem in its simplest form by removing much of the misinformation which has emanated from various spokesmen who support the new regulatory theories of the FDA. In the regulation of foods and food supplement products, Congress has enacted statutes which have been enforced for many years, which prevent the sale of unsafe, products and which prevent false and misleading claims in the sale of said products. The new vitamin regulation and the proposed legislation pending in the House and Senate have nothing whatsoever to do with any change in the present laws regulating questions of safety and fraud.

The real question before us is one of philosophy. Industry and consumer groups contend that the philosophy to be applied in the sale of food products is to give full and complete information to the consumer. As long as the product is safe and not falsely advertised, it should be permitted to be sold.

The FDA, on the other hand, is attempting to impose a philosophy of prohibitions rather than information. The FDA has created a complex structure of new regulations which are designed to directly and indirectly prohibit the sale of safe food products and food ingredients just because the FDA does not want them to be sold. The FDA wishes to embark upon a policy of telling the public which food products they can buy and which they cannot buy. In effect, it wishes to dictate to the American public its diet and infringe upon the individual's right to select his own diet.

The fact is that Congress has previously laid down which philosophy should apply in the sale of food products. The present statute under § 403(j) [21 U.S.C. § 343(j)] clearly sets forth the congressional determination that in the sale of food supplement products full information should be given to the consumer. Industry and consumer groups agree that full information should be given to the consumer. Congress has spoken. Congress has stated, in the Statute, that if a product is safe and not falsely advertised, it can be sold as long as full information is furnished on its label.

In the field of nutrition we are dealing with a very dynamic science where we are just beginning to get the facts about the role played by various food ingredients in human nutrition. Up until the present time, the FDA issued regulations which basically followed the congressional mandate. Thus, regulations were issued which required a label statement setting forth those food ingredients for which the need in human nutrition has not been recognized. Additional information is required on the label of the minimum daily requirement for a specific food ingredient where such knowledge is available. In effect, the Agency has issued regulations in the past to attempt to fulfill the requirements set forth by Congress in the Statute.

Unfortunately, the Agency is now attempting to reverse the philosophy laid down by Congress, under the Statute, and is attempting to invoke prohibitions in the sale of many food products. Some of these devices raise serious questions. Although a number of provisions in the new regulations are clear and direct in setting forth that prohibitions are being invoked, there are, however, other provisions wherein subtle means are being employed to accomplish prohibitions rather than information. Thus, one method which the FDA is attempting to put into effect is a procedure whereby they would increase the cost to the consumer, if he wishes to purchase the various food products he is now using. In some instances, a consumer would have to purchase a large number of bottles of tablets rather than a single one to obtain food products and food supplements he wishes to use and is presently using.

I must repeat that this has nothing to do with safety, but solely a question of the Agency's predilections. Thus, for example, if a person is now buying a tablet of Vitamin C plus E, under the new regulations he can do this only by purchasing a separate bottle of Vitamin C and a separate bottle of Vitamin E. This example can be multiplied many times and also in many other ways, in the regulations, which solely have the purpose of increasing the cost and thus discourage the purchase of products that the FDA does not want sold. In addition, there are other devices employed in these regulations wherein prohibitions would be effectively accomplished although the Agency would have us believe that no real prohibitions are intended. An example of this is where the Agency provides that if a company sells a dietary supplement of Vitamin C containing 90 mg., he can sell it as a dietary supplement. If the Vitamin C contains 100 mg. or 150 mg., he cannot sell it as a dietary supplement or food supplement. The Agency says that it now must become a drug. The manufacturer and consumer are thus placed in the following position.

If the consumer wishes to purchase a dietary supplement, such as 100 mg. of Vitamin C, he either must buy two bottles of Vitamin C containing 50 mg. each at an increased cost, or try to buy a 100 mg. Vitamin C product as a drug. The fact is that the consumer may never be able to purchase a Vitamin C 100 mg. tablet as a drug.

In the first place, the manufacturer is selling 100 mg. of Vitamin C as a food supplement. The consumer is purchasing 100 mg. of Vitamin C as a food. No one is selling a drug to treat any disease. The FDA is being less than candid in blithely stating that it could be sold as a drug because once it is called a drug various provisions of the drug section of the Statute come into play. First, the manufacturer has to try and find a disease which can be treated with Vitamin C. If he finds such a disease, he must then find out if 100 mg. of Vitamin C is effective to treat the disease. It may be that 100 mg. of Vitamin C cannot treat any disease. For all practical purposes, if the FDA can use this method of making a food a drug, it can effectively prevent the sale of many food products. Interestingly enough, although the FDA has told us that it becomes a drug above 90 mg., they have left us dangling to wait for a few years to find out if 100 mg. of Vitamin C would really be accepted to treat any disease condition. We are told that the Over-the-Counter Review Panel will issue a monograph covering that problem.

This is truly an Alice in Wonderland world of non-reality. The incredible nature of this entire problem can be demonstrated by common foods regularly used which contain more than the RDA's of various vitamins. Modest amounts of various common foods, such as orange juice, carrots and spinach, contain quantities of a specific vitamin which are called drugs under the new regulations.

Because of the attempt by the FDA to thwart the congressional policy presently enunciated in the Statute, we feel it essential that Congress clearly and unequivocally stop this attempted administrative legislation. The Hosmer bill presently pending in the House of Representatives and the Proxmire bill in the Senate are designed to accomplish this result.

FOOD AND DRUG ADMINISTRATION,
Rockville, Md., July 12, 1974.

Hon. EDWARD I. KOCH,
House of Representatives,
Washington, D.C.

DEAR MR. KOCH: I appreciate your sending to me for comment the memorandum by Mr. Milton A. Bass. His views are important for several obvious reasons, two principal ones being that he is an attorney for the vitamin industry and must therefore be expressing their concerns, and you state that you find him very persuasive unless he can be refuted.

Mr. Bass' memorandum, like so many other criticisms of our vitamin-mineral regulations, speculates as to what the Food and Drug Administration's motives and future intentions might be, and then attacks these skillfully erected "straw men." Since I am best qualified to comment on what will happen in FDA's immediate future, I decided that I would, myself, prepare this response.

My staff has been embarrassed by my unseemly delay in doing so; and on their behalf, as well as my own, I apologize for not accomplishing an important duty promptly. I know of your desire to evaluate fairly all sides of this important controversy, so I know that you will not let any justifiable irritation at my delay interfere with your evaluation of my comments. I believe that you will agree with me that Mr. Bass' concerns, which I do think accurately reflect many that I have heard, can be allayed.

I will address his arguments individually and begin by agreeing that there remains to this day too much confusion over our intent and the effects of these regulations. The confusion persists in spite of our best efforts to set out clearly and completely what the purpose and results of the regulations are. In particular, Mr. Peter Hutt's letter to several members of the Congress, my testimony of October 29, 1973, and our brief prepared for the review of these regulations by the Second Circuit Court of Appeals, all speak

to the issues raised to date in a straightforward manner. I am truly ignorant of any "misinformation which has emanated from various spokesmen who support" our regulatory theories. Mr. Bass does not provide any examples of such misinformation, so it is rather difficult for me to be specific.

I am aware of a great deal of misinformation being supplied by our detractors, however, mostly from segments of the industry to be affected by our regulations. Some of this information is beautifully exemplified by Mr. Bass' comments themselves, as noted below. I hope that herein I can somehow lay some of this misinformation to rest.

Mr. Bass begins by admitting that Congress intends that we prevent the sale of unsafe products and prevent false and misleading claims. He then makes the interesting statement that our new regulations have "* * * nothing whatsoever to do with any change in the present laws regulating questions of safety and fraud."!

The primary purpose of the regulations at issue,[1] is to protect the consumer against fraud and deception by:

Establishing label requirements for foods for special dietary use, particularly those containing vitamins and minerals and used as dietary supplements, and

Establishing compositional requirements for dietary supplements of vitamins and minerals through the use of standards of identity.

These new regulations have been promulgated precisely because of our conclusion that current regulations governing labeling of dietary supplements of vitamins and minerals (copy enclosed) have not been sufficient to control some of the most extensive fraud found in any industry subject to supervision by the Agency. In addition, there are no current regulations governing composition of dietary supplements of vitamins and minerals. The current regulations, originally promulgated in 1941, require informative labeling, including, for certain vitamins and minerals, a label statement of the proportion of the "minimum daily requirement" of those vitamins and minerals provided by a product when consumed in a specified quantity during a period of one day (21 CFR 125.3, 125.4). The current regulations also require a specific label warning where a vitamin or mineral is included for which the need in human nutrition has not been established (21 CFR 125.3(a)(2), 125.4 (a)(2)).

To illustrate the scope and complexity of the fraud involved in the present marketing of these products, I am enclosing a fifty-page summary of the judicial actions taken by FDA against vitamin-mineral "health food" products, as well as some representative background references to case law on related fraudulent practices.

Thus, in spite of the current regulations requiring informative labeling, a vast amount of fraud has developed in the marketing of vitamin-mineral products. There are many reasons for this. The American public has become aware that certain vitamins and minerals are needed for good health, but the public generally has no precise knowledge as to which substances are needed and which are not, or how the "minimum daily requirement" of a vitamin or mineral correlates with the amount needed for good health. Unscrupulous purveyors of these products have capitalized upon the public's confusion and general lack of knowledge. Vitamin-mineral products have come to be sold in almost every conceivable potency and combination of ingredients, without any discernable rationale other than being to promote a product. Fraudulent claims range from gross assurances of cancer cure to veiled inferences about risk of impotence. Indeed, a "felt need" for these products has been created in a considerable segment of the American public, which has been led to believe that vitamin pills will provide pep, that the American food supply has been deprived of nutritional value, that "natural" vitamins are somehow superior to "synthetic" vitamins, and that a person "needs" extra vitamins. Manufacturing costs are generally low (the components are relatively inexpensive and no research to establish the usefulness of a product need be done), and the retail markup often is tremendous. In sum, a vast misleading array of vitamin-mineral products, most without any nutritional rationale, is now peddled at great profit to the promoters, but with little benefit for the American public.

In response to this widespread fraud, the Food and Drug Administration has initiated numerous civil seizure actions, injunctions, and criminal prosecutions (see enclosure). The hard lesson has been that, while the fraud has sometimes become more sophisticated, repetitious courtroom victories have been insufficient to stem a growing tide of misbranding practices.

We felt that the American public had a right to know what it was that was being marketed, and what the purpose of the product was. The reason for the regulations is, therefore, to bring order to the marketing of these products so that proper information could be given the consumer and he could then make a rational choice of vitamin and mineral products from among properly labeled and marketed alternatives.

Accordingly, the Agency determined to establish a standard of identity for vitamin-mineral supplements pursuant to Section 401 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341) so that a "multivitamin supplement," for example, would contain *all* of the vitamins useful in a dietary supplement in amounts appropraite for dietary supplementation. The regulations establish standards of identity for (1) a multivitamin supplement, (2) a multimineral supplement, (3) a multivitamin supplement plus iron, and (4) a multivitamin-multimineral supplement.

However, the final rulemaking also authorizes individual vitamins and minerals to be sold alone so that a consumer who wants to consume any other combination of vitamins and minerals is free to do so.

Likewise, while the final rulemaking bans ingredients of no known nutritional value, such as rutin, from inclusion in dietary supplements, it permits such substances to be sold as food products (but not in dietary supplements), so that a consumer who for some reason wants to consume rutin and vitamin C will be able to buy pills of each and combine them in his diet in any manner he wishes.

In short, the regulations do not, contrary to Mr. Bass' statements, ban the sale of any vitamin, mineral, nutrient, or even non-nutrient. I do not know where the fantasies on page five of the memorandum come from; they are foreign to me. I do know that vitamin C will remain freely available, and that anyone will be able to eat as much of it as he wants to; but he will do so knowing whether he is consuming a dietary supplement in a potency suitable for dietary purposes or a nonprescription drug in a potency suitable for therapeutic purposes.

Of all the points raised, the one I am least sure about is what any irresponsible portion of the industry might do about raising their prices. It is my belief that our regulations should have no significant effect on prices. There is now a very wide profit margin built into the pricing structure of many products. In addition, removing irrational combinations containing worthless ingredients ought to actually save consumers money. A complete supplement should not cost more than it now does. It may be that those who choose to take certain combinations of vitamins and/or minerals will have to purchase separate bottles; this might result in a small cost increase. Yet, the savings to the consumers in the aggregate that will result from the regulations will be great indeed.

In addition to setting identity standards for dietary supplements of vitamins and minerals, the final regulations provide for more informative labeling requirements pursuant to Section 403(j) of the Act (21 U.S.C. 343(j)). Instead of telling the consumer how much of a vitamin is present in terms of a "minimum daily requirement" (as provided for in the current regulations), the new regulations require label statements in terms of a "United States Recommended Daily Allowance" ("U.S. RDA") which, rather than simply providing data about normal *minimal* needs, provides data in terms of normal *optimal* needs.

Furthermore, the regulations explicitly itemize certain types of representations which cannot be used in the labeling of dietary supplements because they would prevent mandatory label statements from serving their statutory purpose "fully to inform," 21 U.S.C. 343(j), and because they would cause the labeling of a special dietary food to be misleading. The prohibitions are based upon the Agency's experience with existing misbranding practices. For example, the regulations forbid any representation that a vitamin from a natural source is better than a vitamin from a synthetic source. Although such promotion is commonplace today, with consumers being bilked for "natural vitamins" at extra cost, there is no rational basis for distinguishing natural and synthetic vitamins—they are identical molecules. (The regulations require honest statements about the source of a vitamin, but they prohibit false and misleading representations that natural vitamins are superior to synthetic vitamins.)

In sum, these regulations will provide average consumers who wish to purchase dietary supplements of vitamins and/or minerals with products which are appropriate for their needs in composition and potency. These regulations will allow those who consciously desire to consume nutrients in nutritionally irrational combinations, or those who wish to mix nutrients with nonnutrients, to do so by buying the individual ingredients and combining them as they wish. These regulations will further help to put an end to various false and misleading labeling practices which have been used to sell vitamin-mineral products and fraudulently create in consumer's minds many felt needs which have no rational bases.

The remainder of this letter will endeavor to address specifically several miscellaneous issues raised by Mr. Bass.

1. The implication that "consumer groups" are opposed to the regulations is misleading at best. It is a matter of public record that many responsible consumer organizations have endorsed these new regulations, including Ralph Nader's Health Research Group, the American Association of Retired Persons, and the National Retired Teachers Association. Indeed, the official statement of the Nader organization in effect says "as reluct-

[1] "Part 125—Label Statements Concerning Dietary Properties of Food Purporting To Be Or Represented For Special Dietary Uses," 21 CFR 125.1, 125.2, and 125.3, published in the *Federal Register* of August 2, 1973, 38 F.R. 20708–20718.

"Part 80—Definitions And Standards Of Identity For Food For Special Dietary Uses," 21 CFR 80.1, published in the *Federal Register* of August 2, 1973, 38 F.R. 20730–20740.

ant as we are to agree with FDA on anything, this is one time we think they're right." (See House Committee on Interstate and Foreign Commerce, Subcommittee on Public Health and Environment, "Vitamin, Mineral, and Diet Supplements," Committee Print No. 11, 93d Cong., 1st Sess., pp. 50–54, 55–56, 60 (1973); copy enclosed.)

2. I have no quarrel with the assertion that vitamin-mineral products are subject to regulation under Section 403(j) of the Act (21 U.S.C. 343(j)) which authorizes regulations to require information on labels of foods for special dietary uses which is "necessary in order fully to inform purchasers as to (their) value for such uses." Indeed, much of the new Part 125 is explicitly based on Section 403(j). But the existence of Section 403(j) does not somehow exempt vitamins and minerals from the other provisions of the Act; and accordingly, the regulations are also based in part on Section 403(a) of the Act (21 U.S.C. 343(a)) which prohibits labeling which is "false or misleading in any particular" and upon Section 401 of the Act (21 U.S.C. 341) which authorizes the establishment of a "definition and standard of identity" for a food product. The courts have clearly recognized that vitamins and minerals are subject to these latter sections of the Act, e.g., *United States* v. *An Article of Food . . . Nuclomin*, 482 F. 2d 581 (C.A. 8, 1973) (vitamin-mineral product condemned for violation of Section 403(a)); *United States* v. *Vitasafe Formula M*, 226 F. Supp. 266 (D. N.J. 1964), mod. sub nom. *United States* v. *Vitasafe Co.*, 345 F.2d 864 (C.A. 3, 1965), cert. den. 382 U.S. 918 (1965) vitamin-mineral product condemned, *inter alia*, for violation of Section 403(a); *Federal Security Administrator* v. *Quaker Oats Co.*, c18 U.S. 218 (1943) (standard of identitfy for "enriched farina," which fixed the vitamin content to be permitted in the product, upheld). Accordingly, in spite of the memorandum's concluding statement to the contrary, these regulations do follow the "congressional mandate."

3. We are not, of course, attempting to "impose a philosophy" on anyone. We are attempting to assure that a dietary supplement of vitamins and/or minerals will provide needed nutrients in useful amounts, based upon the best available scientific evidence, and that vitamin-mineral products will be honestly promoted and labeled.

4. I agree that the field of nutrition is a "dynamic science," and that current knowledge is subject to revision. In recognition thereof, Part 80 itself specifically advises that the compositional requirements for dietary supplements will be revised periodically for consistency with advancing knowledge (21 CFR 80.1 (f)(2)). Furthermore, while Mr. Bass implies in this regard that greater quantities of nutrients may be needed, we note that he fails to advise you that the most recent comprehensive reevaluation of nutrient needs published by the National Academy of Sciences/National Research Council (*Recommended Dietary Allowances*, National Academy of Sciences, 8th ed. 1974) has concluded that the NAS/NRC's recommended daily dietary allowances for several nutrients should be reduced.

5. Contrary to statements in the memorandum, safety is a factor in the regulation of vitamins. We note that Mr. Bass fails to mention four recent judicial decisions which have upheld FDA regulations which provide that high-dosage preparations of vitamins A and D are deemed not only to be drugs, but prescription drugs, because of potentiality for harmful effect ranging from loss of skin and hair, to mental retardation in newborn infants because of overdosing by pregnant women, to death (21 CFR 3.94, 3.95 (38 *Federal Register* 20723–20725, August 2, 1973)). The four recent decisions are: *National Nutritional Foods Assn.* v. *Weinberger*, preliminary injunction denied, 366 F. Supp. 1341 (S.D. N.Y. 1973), aff'd per curiam, 491 F.2d 845 (C.A. 2, 1973), case dismissed — F. Supp. —, 73 Civ. 3448 (S.D. N.Y., April 5, 1974); *National Health Federation* v. *Weinberger*, No. 73 C 2466 (N.D. Ill., March 22, 1974). (Mr. Bass was counsel for plaintiffs in the three *National Nutritional Foods Assn.* decisions.)

Obviously, just because vitamins are nutrients does not mean that megadose vitamin preparations are safe. These same cases clearly stand for the proposition that high-dosage preparations of vitamins and minerals for which there are no valid dietary supplementation uses for the general public but for which there are valid therapeutic uses, are properly deemed to be drugs.

6. Contrary to statements in the memorandum, there is nothing in the regulations preventing the sale of 100- or 150-milligram tablets of vitamin C, offered as over-the-counter drugs (nonprescription drugs), in drugstores, supermarkets, "health food" stores, etc., and to the best of our knowledge such products are available. The Over-The-Counter (OTC) Drug Review will not materially change this situation. I am already on public record as not being willing to place any vitamin product other than high-potency A and D preparations on a prescription basis unless some new scientific evidence clearly demonstrates a risk to the public's health. Any restrictions on OTC drugs (whether laxatives, aspirin, anticavity toothpastes, high-dosage vitamin preparations, or whatever) ultimately imposed as a result of the OTC Review will of course require ample record support and will be subject to judicial review.

7. Mr. Bass' reference to the ample quantity of nutrients found in many "common foods" only serves to underline the fact that there is no need for concern that any person will be unable to obtain a sufficient quantity of the essential vitamins and minerals. Not only does 100 percent of the U.S. RDA levels for vitamins and minerals supply the daily needs for virtually all healthy individuals, but an additional 50 percent margin of safety has also been allowed in a dietary supplement. This 150 percent of the U.S. RDA in a dietary supplement is in addition to the roughly 100 percent of the U.S. RDA that would also be obtained from the ordinary balanced diet. On top of this, additional quantities of vitamins and minerals (in dosage units exceeding 150 percent of the U.S. RDA) may be obtained as OTC drugs readily available in supermarkets, "health food" stores, etc. All of these products may, of course, be consumed in any daily quantity that the individual chooses. Thus, if there is any concern with these regulations, it may be that they are too lax. Because of these various different sources of nutrients, it is entirely possible that individuals may routinely receive several times the U.S. RDA level per day. It is apparent that no person will be denied access to high levels of vitamins and minerals if he wishes to consume them.

Parts 80 and 125 are now subject to ongoing judicial review. All petitions for review have been consolidated in the United States Court of Appeals for the Second Circuit (*National Nutritional Foods Assn. et al.* v. *Food and Drug Administration et al.*, No. 73–2129 et al.). Briefs have already been filed and oral arguments were held June 19. We hope for a definitive decision on the regulations before the end of the summer. Mr. Bass is, of course, a participant in this proceeding as counsel for certain of the petitioners, and thus he will soon have the benefit of thorough judicial scrutiny of all of his arguments. We intend to abide by the decision of the Court and trust his clients will do the same. I enclose with this letter a copy of our brief in this case, which deals in greater detail with the issues raised by Mr. Bass' memorandum to you. In particular, I believe that pages 53–61, concerning the drug status of high-potency vitamin-mineral products, and pages 14–31, concerning employment of a standard of identity for dietary supplements of vitamins and minerals, will be of interest to you.

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

Cordially,

ALEXANDER M. SCHMIDT, M.D.,
Commissioner of Food and Drugs.

THE LATE "DIZZY" DEAN

(Mr. CONTE asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. CONTE. Mr. Speaker, I rise to pay homage to the memory of one of the greatest stars of baseball, Dizzy Dean.

He was a fabulous athlete. For 4 years, 1933–1936, Dizzy Dean was the best pitcher in the major leagues.

He was also one of the most colorful stars in baseball. His nickname "Dizzy" came from his outlandish, fun-loving, boastful manner. But as the late New York sportswriter, Tom Meany, said: "He's dizzy like a fox." As the free spirit leader of the St. Louis Cardinals' "Gashouse Gang," he had a penchant for loud bragging about his pitching, but he also had a strong arm to prove he was the best.

The stories about him are legend.

He once called an opposing team before a game and boasted: "No curve balls today—I'm pitching all fast balls." Even with that tip, the opponents could scratch only two hits off Dean that day.

When he was assigned to play for Houston in 1931, he went to a phone, called the Dallas team and announced: "Yep, I'm back in town. And I'm gonna give you just two hits tonight." That is exactly what happened.

In the final game of the 1934 World Series, with his St. Louis Cardinals winning 11–0 in the ninth inning, Dean was pitching when Detroit ace slugger Hank Greenberg came to the plate. Having already struck out Greenberg twice that day, Dean went to the Detroit dugout and hollered: "Hey, ain't you guys got any pinchhitters?" Card teammate Frankie Frisch stormed at Dean, but Dean retorted, "You're a great guy Frisch, but you take things too seriously." Dean then struck out Greenberg again on four pitches.

Dean loved to tell outlandish stories, and he was the darling of the sportswriters. To every writer who asked where and when he was born, he gave a different answer. When his hand was accidentally gashed by his wife's nail file, he told one sportswriter that he fell through a glass cigar case. Then he told another writer that he was bitten by a lion in a New York taxicab.

After his baseball career ended, Dean took up golf and quickly became a scratch handicap player. Golf pro Ben Hogan, who frequently played Dean for high stakes, would give Dean a handicap

of just one stroke. And it was Hogan who usually lost and finally called the matches off.

Dizzy Dean lived to play and talk about his greatest day in the game, Dean replied: "Every day I had a ball in my hand and a suit on was my greatest day."

To give my colleagues a fuller appreciation of this joyous man, whose humor and madcap antics have added so much to our national folklore, I include for the RECORD the following articles:

[From the New York Times, July 18, 1974]

DIZZY DEAN, HALL OF FAME PITCHER, DIES

RENO, July 17.—Dizzy Dean, a farmboy who pitched his way into the Baseball Hall of Fame with a blazing fast-ball, died here early today in St Mary's Hospital at the age of 63.

Mr. Dean had suffered a severe heart attack on Monday after complaining of chest pains last Thursday in South Lake Tahoe, Calif. The hospital attributed his death to heart failure.

Surviving are his widow, Patricia, and his brother, Paul.

A funeral service will be held Saturday in Wiggins, Miss., with burial in Bond, Miss., where Mr. Dean had lived as a boy.

A MODERN FOLK HERO

(By Joseph Durso)

His father was an itinerant sharecropper who wandered around the South picking cotton. His mother died when he was only 3 years old. His own education ended in the second grade in a place called Chickalah, Ark., and—he confessed later—"I didn't do so good in the first grade, either."

But, despite all such handicaps and the Ozark country-boy image he carried into high places, Jay Hanna (Dizzy) Dean rose serenely and unflappably into a career as one of the best pitchers in modern baseball and as a folk hero who brought great turns of the English language to radio and television.

He could be vague about details of his early life and times. He suggested on different occasions, that he had been born in Arkansas, Oklahoma and Mississippi. He estimated the date as 1911, or thereabouts. He even gave his formal name variously as Jay Hanna or Jerome Herman Dean. Then, when he reached the big leagues in 1930 at the age of 19, his career barely covered the decade and included only half a dozen seasons of front-ranking pitching.

ENJOYED THE SPOTLIGHT

But wherever he came from, and however long he held the spotlight, few personalities commanded the public's attention as joyously as Dizzy Dean.

In his first full season with the St. Louis Cardinals, he won 18 games and led the National League in strikeouts and shutouts. In the following four seasons, he won 102 games, including 30 in 1934 and 28 in 1935. He once struck out 17 Chicago Cubs in nine innings. And in the 1934 World Series, he and his younger brother, Paul (Daffy) Dean, pitched two victories apiece while the Gashouse Gang of St. Louis defeated the Detroit Tigers, four games to three.

When an injury shortened his baseball career a few years later, Dizzy switched his showmanship behind a microphone and broadcast games for the Cardinals and Browns in St. Louis and for the Yankees in New York. Then he attained new heights as an innovator of language, coining words the way Casey Stengel coined paragraphs.

"Come on, Tommy, hit that old patata," he once said with the partisanship of a full fan. "This boy looks mighty hitterish to me," he observed another time. "Boy, they was really scrummin' that ball over today, wasn't they?" he reported on another occasion. And when purists complained over his statement that a baserunner "slud into third," he would reply in self-defense: "Paul and me didn't get much education."

TEACHERS IN WRATH

His style proved so unusual that, in the summer of 1946, a group of Missouri schoolteachers complained to the Federal Communications Commission that his broadcasts were "replete with errors in grammar and syntax" and were having "a bad effect on the pupils." But in the public debate that followed, powerful voices were raised to champion Dizzy Dean, including that of The Saturday Review of Literature.

Norman Cousins, the guiding spirit of the magazine, now titled Saturday Review/World, extended his own approval of the Dean linguistic style to the great man's pitching style in these words:

"He was supposed to be as fast as Walter Johnson, and though he couldn't curve them and mix them up like the great Matty [Christy Mathewson], his assortment was better than most. You were attracted by the graceful rhythm of his pitching motion; the long majestic sweep of his arm as he let the ball fly; the poised alertness after the pitch. That was what counted, and you knew it when batter after batter swung ineptly at pitches they couldn't even see."

The man behind the fractured syntax and the fractured batting averages was a 6-foot-2-inch giant whose playing weight of 182 pounds expanded well above 200 during the 20 years he spent as a broadcaster, public speaker, raconteur, rancher and golfer. The consensus is that he was born Jan. 16, 1911, in Lucas, Ark., and Red Smith portrayed him in The New York Times in these words:

"As a ballpayer, Dean was a natural phenomenon, like the Grand Canyon or the Great Barrier Reef. Nobody ever taught him baseball and he never had to learn. He was just doing what came naturally when a scout named Don Curtis discovered him on a Texas sandlot and gave him his first contract."

That was in the fall of 1929, and Dean later recalled that his "bonus" amounted to $300. He earned it the next season by winning 17 games at St. Joseph, Mo., plus eight more at Houston in the Texas League. The Cardinals promoted him to the majors around Labor Day and he pitched once—beating the Pittsburgh Pirates with a * * *

A YOUTH OF CONFIDENCE

He was still a teen-ager at the time, not far removed from the 16-year-old who had enlisted in the Army, where he supposedly wore his first pair of good shoes. But he was a teen-ager with absolute confidence in his baseball ability, and he demonstrated the confidence in his baseball ability, and he demonstrated the confidence after his debut by boasting that he could "pitch St. Louis to the pennant." The Cardinals responded by relegating him back to the minors in 1931, but he promptly demonstrated his ability there by winning 26 games.

Branch Rickey, who was running the Cardinals then, brought Dean back to St. Louis to stay in 1932 and Dizzy won 18 times with 16 complete games and 191 strikeouts. Two years later, he touted Rickey on his brother Paul and, in 1934, the Dean boys pitched 49 victories (30 by Dizzy) and pitched the Cardinals to the world championship.

Pitchers may have had better seasons than Dizzy did that year, but not many. He was suspended briefly for insubordination and held out briefly for more money in midseason, yet he finished the summer with a 30-and-7 record that included these highlights down the home stretch of the pennant race:

On Sept. 21, he pitched a three-hitter against the Brooklyn Dodges (Paul pitched a no-hitter in the second game of the doubleheader). Two days later, Dizzy relieved in both games of a doubleheader in Cincinnati. Two days after that, he went nine innings and beat Pittsburgh, 3–2. Three days later, he stopped Cincinnati, 4–0. and two days after that, he shut out the Reds again, 9–0, to clinch the flag. Three days later, he beat Detroit in the opening game of the World Series.

STRIKEOUTS HIS GOAL

"I always just went out there and struck out all the fellas I could," he remembered. "I didn't worry about winnin' this number of games or that number—and I ain't a-woofin' when I say that, either."

As one of the ringleaders of the rowdy Gashouse Gang that summer, Dean had plenty of support from Frank Frisch, Rip Collins, Joe Medwick and the other Cardinals. They invaded hotel ballrooms in painters' overalls, they formed a hillbilly band, they nearly provoked a riot in the World Series. But they won, even though Dizzy was struck on the head by a thrown ball while running the bases.

Things started to unwind in 1937, when Dean was struck on the left foot by a line drive while pitching in the All-Star Game in Washington. He suffered a broken toe, but suffered more permanently when he tried to pitch despite the handicap and subsequently ruined his right arm. So in 1938, the Cardinals traded him to the Chicago Cubs for $185,000 and three players.

He did pitch in the World Series for the Cubs against the Yankees, but he was never his old fireballing self on the mound. And in May of 1941, at the age of 30, he retired as a player with a career record of 150 victories and 83 losses for a winning percentage of .644, and an earned-run average of 3.08.

FOLK LEGEND FILMED

He was elected to baseball's Hall of Fame in 1953 (in an election in which Joe DiMaggio placed eighth). But by then, Dizzy Dean was already a folk legend that even Hollywood had titled "The Pride of St. Louis," starring Dan Dailey as Dizzy, and Bosley Crowther wrote in his review in The New York Times:

The magnetic thing is the nature of a great, big lovable lug who plays baseball for a living and lives just to play—or talk—baseball. It is not Dizzy Dean, the Cardinal pitcher, the powerhouse of the old Gashouse Gang, the man who won so many games in so many seasons, that is the hero of this film. It is Dizzy Dean, the character, the whiz from the Ozark hills, the braggart, the woeful grammarian, the humbled human being."

Through it all, Dean was abetted by Patricia Nash, a department-store sales clerk he met while pitching for Houston. They were married in 1931 and later made their home in Dallas, where he played golf and did some ranching and eventually worked his vernacular into the broadcast booth.

The players returned to their respectable bases, he once advised the radio audience. Then, when he got into television, he declared: "I'm through talking about things folks ain't seeing." And later: "The trouble with them boys is they ain't got enough spart."

When he was pressed for an explanation of that bit of Ozark inflection, Dizzy replied: "Spart is pretty much the same as fight or pep or gumption. Like the Spart of St. Louis, that plane Lindebergh flowed to Europe in."

HALL OF FAMER DIZZY DEAN DIES

RENO, NEV.—Dizzy Dean, folklore hero of baseball's golden age, died early today at the age of 64 at St. Mary's Hospital.

The Hall of Fame pitcher had suffered a massive heart attack while dining with his wife Pat, last Sunday. She, his brother Paul, and Paul Dean's two children were at his side.

Dean was the last National League pitcher to win 30 games, leading the 1934 St. Louis Cardinals to the pennant with a 30–7 record. Paul Dean added 19 wins in a baseball brother act perhaps rivaled only by the DiMaggios.

Dizzy, who said he had two sets of given names, was born on Jan. 16, Aug. 22 and Feb. 22, in Lucas, Ark., Holdenville, Okla., and Bond, Miss.

The son of a cotton-picker whose family straggled about the Southwest in the early 1920s, he developed a strong arm by throwing clods at prairie dogs. He was one of the rawest "bushers" ever to reach the big leagues, admitted to being the best pitcher in baseball history, fractured the English language in an unending torrent of words and was a famous radio and TV baseball announcer.

Amiable although incredibly vain, Ol' Diz was the soul of the St. Louis Cardinals' 1934 Gas House Gang and an advisor to anyone who would listen. He swaggered sitting down, once dangled a teammate out of a 12th-story hotel window and liked to invade formal parties in the overalls of a house painter.

With it all, Dizzy was one of baseball's greatest pitchers before a freak accident in 1937 cut short his career. He was elected to the Baseball Hall of Fame in Cooperstown, N.Y., in 1953 and later unsuccessfully ran for governor in Mississippi. His record was 150 wins, 83 losses.

A 6-foot-4, 200-pound right-hander, Dean entered organized baseball with St. Joseph of the Western League in 1930 and by the end of the season earned a trial with the parent Cardinal organization. General Manager Branch Rickey recognized his talent—Dizzy had compiled a 25–10 record with St. Joseph and Houston of the Texas League—but thought another season in the minor leagues would do the cocksure youth some good.

Dizzy was back with the Cardinals a year later after winning 26 games, compiling a 1.57 earned run average and striking out 303 batters in 304 innings for Houston in 1931.

It was during the spring of 1932 that Dizzy began his own legend with contradictory stories of his birth and early life. Also, with the announcement that the only pitcher in the world even close to him in ability was his younger brother, Paul. Sportswriters promptly tabbed the brothers "Dizzy and Daffy" although the younger Dean turned out to be a modest enough chap.

Asked once why he lied to sportswriters about his birthday, name and birthsite, he replied: "Them ain't lies, them's scoops." Then, after a moment's thought, he continued:

"I don't know when or where I was born but I know my real name is Jay Hanna Dean. I took the names Jerome Herman as a favor for a kid's father. The kid was a friend of mine who died when he was about 10 years old. I told the father I liked the kid so much I was gonna call myself by his names."

As a rookie in 1932, Dizzy had an 18–25 record and led the league with 191 strikeouts and 286 innings pitched. He came back with a 20–18 sophomore season in 1933 and led the league with 199 strikeouts and 48 appearances.

In the spring of 1934, Dizzy announced that "me and Paul" would win 45 games between them that season and that the Cardinals would win the National League pennant. The brothers made good on the boast, winning 49 games between them to pitch the Cards to the pennant and then beating Detroit twice each in the World Series.

Dizzy reached his peak in that 1934 season—on and off the field.

Starting and relieving as the Gas House Gang battled down the stretch with the New York Giants and Chicago Cubs, Dizzy won three games in the last week of the 1934 season to finish with a 30–7 record, a 2.65 ERA and 195 strikeouts in 50 games and 312 innings. Only one major league pitcher—Denny McLain of the Tigers in 1968—has won 30 games since Dean did it in 1934.

The Tigers were favored in the 1934 World Series but Dizzy announced that "me and Paul can beat 'em all by us-selves," and the brothers again proved as good as Dizzy's word by winning two games each in the seven-game series. Dizzy himself won the seventh game 11–0 as Detroit fans littered the field with papers, beer cans and other debris.

The laughs and the victories continued in 1935 and 1936 as Dizzy cavorted on and off the field with the likes of Joe Medwick, Pepper Martin, Leo Durocher, Ripper Collins and other boisterous members of the Gas House Gang. He had a 28–12 record in 1935 and a 24–13 mark in 1936.

In the 1937 All-Star Game Dizzy was struck on the right toe by a line drive off the bat of Earl Averill of the Cleveland Indians. He suffered a broken toe, and the following spring was sold to the Chicago Cubs. On May 14, 1941 he was released to accept a radio broadcasting job in St. Louis.

Ol' Diz promptly started a new career, attracting wide interest with his unconventional style and fractured English. A group of grade school teachers demanded his removal on the grounds that he was teaching young listeners bad English, but he replied that he was "Learnin' 'em good baseball."

[From the Washington Post, July 18, 1974]

DIZZY DEAN, FAMED PITCHER TURNED "COMMULTATOR," DIES

RENO, NEV., July 17.—Dizzy Dean, a free spirit whose blazing fast ball, down-home twang and quick wit won him a place in baseball's Hall of Fame and the hearts of millions of Americans, died today at the age of 63.

Dean, whose pitching feats will be remembered as long as the game is played, and whose broadcasting and off-the-field antics gave enjoyment and laughter to millions, died at 4:35 am (EDT) in St. Mary's Hospital, two days after suffering a heart attack.

His wife, Patricia, who calmed Dean's wild spending habits after their marriage, and his brother Paul, who formed the other half of the feared "me 'n Paul" pitching duo for the St. Louis Cardinals Gashouse Gang in the 1930s, were at Dean's bedside when he died.

Dean, who had a unique way of portraying baseball games as a self-described "commultator, suffered his second heart attack in five days on Monday, and had been in serious condition since. A hospital spokesman said Dean had numerous ups and downs during his last 12 hours, and was conscious until an hour before he died.

Dean first complained of chest pains last Thursday while playing golf in South Lake Tahoe, Calif., and was hospitalized. Dr. Charles Crist said in South Lake Tahoe on Wednesday that Dean had left the hospital there Sunday without doctors' permission and against their advice. He would not elaborate.

From South Lake Tahoe, Dean went to Reno, where he was hospitalized Sunday night after suffering more pains while eating dinner with his wife and a physician. The fatal heart attack came a few hours later.

The man who made English teachers cringe as he described baseball games with "ain't," "slud," and "throwed," became one of baseball's greatest pitchers despite losing his effectiveness to an arm injury at age 27, when he should have been reaching his peak.

Dean's career was cut short when a line drive off the bat of Earl Averill struck his toe in the 1937 All-Star Game. The injury forced him to change his pitching motion so he would not rely so much on his leg. That caused an injury to his arm and forced him to depend on curves instead of his blazing fast ball.

Statistics on Dizzy Dean are impressive, but do not do him justice by themselves. He won 150 games, lost 83, threw 27 shutouts, led the National League in strikeouts for years.

His most amazing season—and one of the best any pitcher ever had—was in 1934 when, at the age of 23, Dizzy won 30 games and lost seven. Brother Paul chipped in with 19 victories and the Cardinals won the National League pennant. Dizzy won two games in the World Series and Paul won the other two, and the Cards had a world championship.

During the pennant drive of 1934 and continuing into the World Series, Dean pitched nine games in 19 days. He was the National League's Most Valuable Player, and led it in strikeouts.

On Sept. 23, 1934, pitching the first game of a doubleheader against the Brooklyn Dodgers, Dizzy threw a one-hit shutout. In the second game, brother Paul, nick-named Daffy because it sounded good beside his brother's name, pitched a no-hitter. Dizzy had the last word.

"If I had known Daffy was gonna pitch a no-hitter, I would have pitched one, too," he said.

The next two years Dean compiled 28-12 and 24-13 records, and at age 25 he had won 121 games, probably more than any pitcher ever won by that age, and already was a baseball legend.

He slipped to 13–10 in 1937 and in 1938 was sold to the Chicago Cubs for the then-phenomenal sum of $185,000 and three players. He helped the Cubs to the pennant that year with a 7-1 record.

Dean's career to all intents career ended with a 3-3 record in 1940, although he pitched one inning in relief in 1941 and came out of the broadcasting booth in 1947 to pitch four scoreless innings as a stunt for the St. Louis Browns.

Dean broadcast the Browns through the 1940s, worked for two years as a "commultator" for the New York Yankees beginning in 1950, returned to St. Louis and then worked until 1960 on Saturday baseball games on national television.

During the 1960s Dean made frequent appearances as a guest "commultator" on radio and television broadcasts of baseball games, the most recent being June 17 when he appeared on a Monday night NBC game.

Jay Hanna Dean was born Jan. 16, 1911. Just where was always open to question.

Records show the event was in Lucas, Ark., but Dean always came up with different places and once was heard to tell three different writers three different birthplaces on the same day.

Asked about that once, he said, "I was helpin' the writers out. Them ain't lies; them's scoops."

"I don't know when or where I was born but I know my real name is Jay Hanna Dean," he would tell sportswriters. "I took the names Jerome Herman as a favor for a kid's father. The kid was a friend of mine who died when he was about 10 years old. I told the father I liked the kid so much I was gonna call myself by his names."

It was another example of his kindness and generosity.

Dean ran away from his cotton pickin' job as a teen-ager, and was found a few months

later in Texas—in the Army. He said that's where he got his first pair of shoes, but he didn't care for the regimentation.

After he was discharged Dean was signed by a Cardinal scout, and in less than a year had worked his way to the big club, where he pitched one game. That was 1930 and he was 19.

Dean's broadcasting career was equally as tumultuous as his playing days. But he said he had no intention of changing his style of delivery.

"A lot of folks that ain't saying (ain't) ain't eatin'," he said, adding he was "gonna keep on saying 'ain't' and keep on 'eatin'."

And if the folks in Brooklyn couldn't understand him, Dean allowed as how "they got nothin' on me—I can't understand them, either."

Election to the Hall of Fame in 1953 was a highlight of Dean's life, one which had many bright moments.

Officials said funeral services will be Saturday at 10 a.m. in Wiggins, Miss., with burial to follow in a cemetery at his hometown of Bond, Miss.

DEAN REMEMBERED, KINDLY

When Dizzy Dean was at his prime, he was stingy with hits and loved to laugh about hitters off the field after he struck them out. But mindful of the lean years of growing up as a cotton picker in the South, he sometimes dipped into his pocket to help fellow players down on their luck.

Only two weeks ago while being interviewed in Mississippi he heard that Marshall Bridges, a former Yankee pitcher now living in Jackson, Miss., had been invited to the New York Yankees' old-timers game but had fallen on hard times financially.

Dean whipped out a $100 bill and handed it to the writer, John Stamm of the Jackson Clarion Ledger.

"You know something, podnuh, I'll make sure he gets decked out," Dean told Stamm.

Dean, a member of the St. Louis Cardinals' famous "Gashouse Gang," died yesterday of a heart attack at age 63 in Reno, Nev., but memories of his penchant for life, his love for baseball and his reputation as a pitcher live on.

Joe Medwick, the "Gashouse Gang's" left fielder, said in St. Louis: "I've lost a very fine friend. He was so great, but he used to say 'I'm not the best, but I'm among 'em.' "

For six years, Dean worked with Pee Wee Reese on Game of the Week telecasts. Reese, in Louisville, Ky., remembered "There wasn't any middle ground about Old Diz. He was the type of fellow you either liked or disliked. Diz was a little bit shy, you know," Reese said.

"He wanted to be with people he enjoyed being with . . . but sometimes people bugged him because of all the attention he got.

"He loved telling stories and loved to sing 'Wabash Cannonball' and 'Precious Moments.' He'd sing not only on the air but also in the cab rides or on the bus. He was enthusiastic on or off the air."

"He was a great competitor and enjoyed living," said Jim Mooney, who was in the Cards' rotation in 1933 and 1934 and recently retired as baseball coach at East Tennessee State University. "I recall during the 1934 World Series with Detroit that Hank Greenberg was having a tough time hitting St. Louis pitching. Greenberg finally got a single off Dizzy and laughed at him on the way to first base.

"The next time Hank got up, Dizzy struck him out with three straight fast balls. Dizzy dropped to his knees and walked to the dugout on them, laughing at Greenberg all the way."

But Terry Moore, who played center field for the Cards during Dean's last three seasons with the club, remembered him as sometimes benevolent with his pitches.

"If he liked the fellow batting against him, he'd let him have a hit if we were ahead, said Moore. "He didn't worry about how many hits they got as long as it didn't hurt him."

CONCERT CHORALE OF SOUTHERN ILLINOIS UNIVERSITY AT EDWARDSVILLE WINS CHORAL COMPETITION IN SPITTAL, AUSTRIA

(Mr. PRICE of Illinois asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. PRICE of Illinois. Mr. Speaker, on July 7 the Concert Chorale of Southern Illinois University at Edwardsville won the 11th annual chorale competition in Spittal, Austria. The SIUE group finished second in the folk music competition and in a first-place tie in the serious music competition, which makes it the winner on a total-point basis.

This is an unprecedented accomplishment for an American choral group, and I am certain my colleagues join me in congratulating the members of the chorale on their performance.

The chorale, which consists of 47 singers, is ably directed by Leonard Van Camp, of Edwardsville. A great deal of the group's success can be attributed to Mr. Van Camp's dedication to musical excellence.

The chorale has been on a European concert tour since June 24. During that time it has performed in Chichester, Coventry, Bad Hersfeld, Prague, and St. Florian. Before its return on Friday, the group will sing in Meran, Reutte, Salzburg, Gleisdorf, and Vienna.

At 1 p.m. on Sunday, the chorale will present a homecoming performance in the Kennedy Center's grand foyer.

I am told that the European audiences were uniformly impressed with the chlorale, and a Hungarian judge at Spittal remarked that it was the best American choir he had ever heard.

The tour is also noteworthy because the Prague concert was the first formal indoor concert ever given by an American choir in Czechoslovakia.

Mr. Speaker, this tour clearly marks the SIUE Concert Chorale as one of the Nation's finest singing groups and a valuable ambassador of good will. Mr. Van Camp and his singers deserve high praise for a singular achievement.

CIA LEGISLATION

(Mr. NEDZI asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. NEDZI. Mr. Speaker, on July 16, 1974. I informed our colleagues that legislation had been introduced to amend the National Security Act of 1974 with regard to clarifying the role of the Central Intelligence Agency in our organization for national security.

I wish to announce that hearings will be held on that bill, H.R. 15845, in the House Armed Service's Special Intelligence Subcommittee in open session commencing July 22, 1974, at 10 a.m. in room 2337, Rayburn Building. In addition to receiving testimony from the Central Intelligence Agency and the Department of Justice, the subcommittee expects to hear from Members of Congress and other interested parties outside the executive branch.

For the information of our colleagues, I include a copy of a press release on the matter issued today:

HOUSE PANEL TO EXAMINE CIA CHARTER

Open hearings in the Armed Services Committee will commence on H.R. 15845 on July 22, 1974 to clarify the role of the Central Intelligence Agency under the provisions of the National Security Act of 1947. In announcing the hearings by the Special Subcommittee on Intelligence Lucien N. Nedzi (D-Mich.), Chairman of the Panel, indicated that the bill evolved from the extensive inquiry conducted by the Subcommittee into the alleged involvement of the CIA in the Watergate and Ellsberg matters, which was reported on October 23, 1973.

"We are attempting to strengthening the National Security Act to assure that the CIA not engage in activity outlawed by the Act and to discourage any future attempts in the Executive Branch to so use the Agency," said Nedzi. "It may be recalled that in our investigation the Subcommittee uncovered various blatant instances in connection with Watergate and Ellsberg affairs where White House aides pressured the CIA into involving itself in activities that were clearly improper." "In addition," said Chairman Nedzi, "there were White House attempts to use the CIA to divert the FBI investigation of the Watergate breakin, and to provide assistance to Watergate defendants in clear violation of the law."

The legislation also looks to a reexamination of the statutory language relative to the responsibilty of the Director of Central Intelligence for the protection of intelligence sources and methods. There is an added provision which would prohibit former employees from unauthorized contacts with the active CIA organization.

Chairman Nedzi was joined by the ranking Member of the Subcommittee, Mr. William G. Bray (R-Ind.), in introducing H. R. 15845. The Panel expects to receive testimony not only from the CIA and the Department of Justice but also from Members of Congress and other interested parties outside the Executive Branch. The initial session will be held in proceedings open to the public at 10:00 a.m., July 22, 1974 in Room 2337, the Rayburn Building.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows:

To Mr. SYMINGTON (at the request of Mr. O'NEILL), for today, on account of illness.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. LAGOMARSINO) and to revise and extend their remarks and include extraneous matter:)

Mr. STEELMAN, for 5 minutes, today.
Mr. HANSEN of Idaho, for 5 minutes, today.
Mr. ESCH, for 30 minutes, today.
Mr. PARRIS, for 5 minutes, today.
Mr. BEARD, for 5 minutes, today.
Mr. CRANE, for 5 minutes, today.
Mr. RAILSBACK, for 5 minutes, today.
Mr. QUIE, for 10 minutes, today.
Mr. MICHEL, for 15 minutes, today.

(The following Members (at the request of Mr. MEZVINSKY) and to revise and extend their remarks and include extraneous matter:)

Mr. ROSTENKOWSKI, for 5 minutes, today.
Mr. GONZALEZ, for 5 minutes, today.
Mr. FRASER, for 5 minutes, today.
Mr. VANIK, for 5 minutes, today.
Mr. WOLFF, for 5 minutes, today.
Mr. OWENS, for 20 minutes, today.
Mr. PODELL, for 10 minutes, today.
Mr. LEGGETT, for 5 minutes, today.
Mr. HARRINGTON, for 5 minutes, today.
Mr. DIGGS, for 15 minutes, today.
Mr. ADAMS, for 15 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. KOCH, and to include extraneous matter notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $834.

Mr. SNYDER, and to include extraneous matter notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $903.50.

Mrs. MINK to revise and extend her remarks and include extraneous matter following remarks of Mr. STEIGER of Wisconsin on his special order.

Ms. ABZUG, and to include extraneous matter notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $1,668.

(The following Members (at the request of Mr. LAGOMARSINO) and to include extraneous matter:)

Mr. VEYSEY in two instances.
Mr. HANSEN of Idaho.
Mr. MCCLORY.
Mr. ESCH.
Mr. STEIGER of Wisconsin.
Mr. ASHBROOK in two instances.
Mr. NELSEN.
Mr. PARRIS.
Mr. O'BRIEN in 10 instances.
Mr. HUNT.
Mr. SMITH of New York in two instances.
Mr. FRENZEL in four instances.
Mr. CLEVELAND.
Mr. BROYHILL of Virginia.
Mr. CONTE.
Mr. CRONIN in two instances.
Mr. HOSMER in two instances.
Mr. QUIE in two instances.
Mr. HUBER in two instances.
Mr. CRANE in five instances.
Mr. MCDADE.
Mr. FROEHLICH.
Mr. YOUNG of Illinois in two instances.
Mr. TREEN.

(The following Members (at the request of Mr. MEZVINSKY) and to include extraneous matter:)

Mr. GIAIMO in 10 instances.
Mr. TRAXLER in 10 instances.
Mr. DAVIS of Georgia in 10 instances.
Mr. RARICK in three instances.
Mr. GONZALEZ in three instances.
Mr. ANDERSON of California in two instances.
Mr. TIERNAN in two instances.
Mr. BIAGGI in five instances.
Mr. LEHMAN in five instances.
Mr. FRASER in five instances.
Mr. ROONEY of New York in two instances.
Mr. CHARLES H. WILSON of California.
Mr. MURTHA.
Mr. PODELL in two instances.
Mrs. BURKE of California.
Mr. WOLFF in five instances.
Mr. MURPHY of New York.
Mr. HARRINGTON in two instances.
Mr. MURPHY of Illinois.
Mr. O'HARA.
Mr. ROGERS.
Mr. LEGGETT in two instances.
Mr. THOMPSON of New Jersey.
Mr. ECKHARDT.
Mr. GINN.
Mr. MELCHER.
Mr. PEPPER.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 1791. An act 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; to the Committee on Foreign Affairs.

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; to the Committee on Interstate and Foreign Commerce.

ENROLLED BILL SIGNED

Mr. HAYS, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 9440. An act to provide for access to all duly licensed clinical psychologists and optometrists without prior referral in the Federal employee health benefits program.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 3679. An act to provide temporary emergency livestock financing through the establishment of a guaranteed loan program.

ADJOURNMENT

Mr. MEZVINSKY. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 13 minutes p.m.), under its previous order, the House adjourned until Monday, July 22, 1974, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2556. A letter from the Assistant Secretary of Defense, transmitting the third quarter, fiscal year 1974 report of receipts and disbursements pertaining to the disposal of surplus military supplies, equipment, and material, and for expenses involving the production of lumber and timber products, pursuant to section 712 of Public Law 93-238; to the Committee on Appropriations.

2557. A letter from the Secretary of the Navy, transmitting a draft of proposed legislation to provide for the striking of medals in commemoration of the Bicentennial of the U.S. Army, the U.S. Navy, and the U.S. Marine Corps; to the Committee on Banking and Currency.

2558. A letter from the Assistant Secretary for Congressional Relations, Department of State, transmitting a section of the report dealing with external debt of developing countries until the delayed report is filed pursuant to section 17(g) of the Foreign Assistance Act of 1973; to the Committee on Foreign Affairs.

2559. A letter from the Comptroller General of the United States, transmitting a report on the Department of Defense need to consolidate responsibility for automatic digital network (Autodin) terminals; to the Committee on Government Operations.

2560. A letter from the Under Secretary of Health, Education, and Welfare, transmitting the views of the Department regarding decentralization review of the Food and Drug Administration and the Center for Disease Control; to the Committee on Interstate and Foreign Commerce.

2561. A letter from the Office of Telecommunications Policy, Office of the President, transmitting a draft of proposed legislation to amend certain provisions of the Communications Act of 1934 to provide long-term financing for the Corporation of Public Broadcasting and for other purposes; to the Committee on Interstate and Foreign Commerce.

2562. A letter from the Secretary of Transportation, transmitting a report on the use of mass media for highway safety, pursuant to section 211(a) of the Highway Safety Act of 1973 (Public Law 93-87); to the Committee on Public Works.

2563. A letter from the Acting Administrator, General Services Administration, transmitting a prospectus for the renewal of the present leasehold interest until future site for the Immigration and Naturalization Service is completed pursuant to the Public Buildings Act of 1959, as amended; to the Committee on Public Works.

RECEIVED FROM THE COMPTROLLER GENERAL

2564. A letter from the Comptroller General of the United States, transmitting a list of reports issued or released by the General Accounting Office during the month of June 1974, pursuant to 31 United States Code 1174; to the Committee on Government Operations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk

for printing and reference to the proper calendar, as follows:

Mr. DULSKI: Committee on Post Office and Civil Service. Report on a review of the administration of the Federal employee's health benefits program (Rept. No. 93–1205). Referred to the Committee of the Whole House on the State of the Union.

Mr. HALEY: Committee on Interior and Insular Affairs. H.R. 15736. A bill to authorize, enlarge, and repair various Federal reclamation projects and programs, and for other purposes; with amendment (Rept. No. 93–1206). Referred to the Committee of the Whole House on the State of the Union.

Mr. SISK: Committee on Rules. House Resolution 1107. Resolution to amend the rules of the House of Representatives to provide for the broadcasting of meetings, in addition to hearings, of House committees which are open to the public; with amendment (Rept. No. 93–1207). Referred to the House Calendar.

Mr. MURPHY of Illinois: Committee on Rules. House Resolution 1246. Resolution providing for the consideration of H.R. 15578. A bill to amend the Small Business Act, the Small Business Investment Act, and for other purposes (Rept. No. 93–1208). Referred to the House Calendar.

Mrs. HANSEN of Washington: Committee on Appropriations. H.R. 16027. A bill making appropriations for the Department of the Interior and related agencies for the fiscal year ending June 30, 1975, and for other purposes (Rept. No. 93–1209). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Ms. ABZUG:

H.R. 15975. A bill to establish the Sewall-Belmont House National Historic Site, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. ALEXANDER (for himself, Mr. BAKER, Mr. JOHNSON of Colorado, Mr. MADIGAN, Mr. WAMPLER, Mr. MILLS, Mr. WHITTEN, Mr. THORNTON, Mr. HAMMERSCHMIDT, Mr. BURLISON of Missouri, Mr. BOWEN, Mr. GUNTER, Mr. MURPHY of New York, Mr. HANNA, Mr. JONES of Tennessee, Mr. MATSUNAGA, Mr. LITTON, and Mr. RANGEL):

H.R. 15976. A bill to establish improved programs for the benefits of producers and consumers of rice; to the Committee on Agriculture.

By Mr. ASHLEY (for himself, Mr. REES, Mr. MITCHELL of Maryland, Mr. ST GERMAIN, Mr. HANNA, Mr. KOCH, Mr. MOAKLEY, Mr. BROWN of Michigan, Mr. JOHNSON of Pennsylvania, Mr. MCKINNEY, and Mr. FRENZEL):

H.R. 15977. A bill to amend the Export-Import Bank Act of 1945, and for other purposes; to the Committee on Banking and Currency.

By Mr. BEARD (for himself and Mr. BOWEN):

H.R. 15978. A bill to authorize the financing of parkways from the Highway Trust Fund; to the Committee on Public Works.

By Mr. BELL (for himself, Mr. WON PAT, Mr. PODELL, Mr. MOAKLEY, Mr. BRASCO, Mr. LUKEN, Mr. KEMP, Mr. GUNTER, Mr. TREEN, Mr. WOLFF, Mr. KOCH, and Mr. HUBER):

H.R. 15979. A bill to authorize the Secretary of the Treasury to reimburse State and local law enforcement agencies for assistance provided at the request of the U.S. Service; to the Committee on the Judiciary.

By Mr. BERGLAND (for himself, Mr. ADDABBO, Mr. BADILLO, Mr. BLATNIK, Mr. REES, Mr. MURTHA, Mr. MITCHELL of Maryland, Mr. EDWARDS of California, Mr. OBEY, Mr. THOMPSON of New Jersey, Mr. JONES of Oklahoma, Mr. WON PAT, Mr. Moss, and Mr. CHARLES H. WILSON of California):

H.R. 15980. A bill to provide for adequate reserves of certain agricultural commodities, and for other purposes; to the Committee on Agriculture.

By Mr. BROWN of California (for himself, Mr. ASPIN, Mr. DRINAN, Mr. FRASER, Mr. FRELINGHUYSEN, Mr. HARRINGTON, Mrs. HECKLER of Massachusetts, Mr. MITCHELL of Maryland, Mr. OWENS, Mr. REES, Mr. ROBISON of New York, and Mr. WIGGINS):

H.R. 15981. A bill to permit nonimmigrant foreign students to be employed during school vacations with the approval of the individual's school; to the Committee on the Judiciary.

By Mr. DELLENBACK:

H.R. 15982. A bill to amend the Fair Labor Standards Act of 1938 to exclude from minimum wage and overtime coverage employees employed to provide only babysitting services; to the Committee on Education and Labor.

By Mr. HANSEN of Idaho (for himself and Mr. SYMMS):

H.R. 15983. A bill to authorize the establishment of the City of Rocks National Monument in the State of Idaho, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. HASTINGS:

H.R. 15984. A bill to amend the Federal Food, Drug, and Cosmetic Act to include a definition of food supplements, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. KEMP:

H.R. 15985. A bill to insure that foreign articles of clothing are not exempt from the country of origin making requirements of the Tariff Act of 1930 by reason of certain processing after importation; to the Committee on Ways and Means.

H.R. 15986. A bill to amend the Internal Revenue Code of 1954 with respect to the tax treatment of capital gains and losses; to the Committee on Ways and Means.

By Mr. KING:

H.R. 15987. A bill to terminate the granting of construction licenses of nuclear fission powerplants in the United States pending action by the Congress following a comprehensive 5-year study of the nuclear fuel cycle, with particular reference to its safety and environmental hazards, to be conducted by the Office of Technological Assessment; to the Joint Committee on Atomic Energy.

By Mr. MITCHELL of New York:

H.R. 15988. A bill to amend section 5051 of the Internal Revenue Code of 1954 (relating to the Federal excise tax on beer); to the Committee on Ways and Means.

By Mr. PARRIS (for himself and Mr. BROYHILL of Virginia):

H.R. 15989. A bill to amend the Survivor Benefit Plan provided for under title 10 of the United States Code to prohibit reduction in retired or retainer pay in cases where the beneficiary predeceases the retiree; to the Committee on Armed Services.

H.R. 15990. A bill to amend the Survivor Benefit Plan provided for under title 10 of the United States Code to make any surviving spouse eligible for an annuity thereunder if married to the retiree at least 1 year before the retiree's death; to the Committee on Armed Services.

By Mr. QUIE (for himself, Mr. BELL, Mr. CLEVELAND, Mr. DELLENBACK, and Mr. STEIGER of Wisconsin):

H.R. 15991. A bill to encourage and assist States and localities to develop, demonstrate, and evaluate means of improving the utilization and effectiveness of human services through integrated planning, management, and delivery of those services in order to achieve the objectives of personal independence and individual and family economic self-sufficiency; to the Committee on Education and Labor.

By Mr. RIEGLE (for himself, Mr. ADAMS, Mr. BERGLAND, Mr. BREAUX, Mr. BRECKINRIDGE, Mr. CONYERS, Mr. DELLUMS, Mr. DINGELL, Mr. DULSKI, Mr. HARRINGTON, Mr. KARTH, Mr. LEHMAN, Mr. PATTEN, Mr. PETTIS, Mr. PRITCHARD, Mr. STARK, Mr. UDALL, Mr. VANIK, Mr. YOUNG of Georgia, Mr. MOAKLEY, and Mr. DIGGS):

H.R. 15992. A bill to amend the Employment Act of 1946 with respect to price stability; to the Committee on Government Operations.

By Mr. RODINO:

H.R. 15993. A bill to amend the Urban Mass Transportation Act of 1964 to provide increased assistance for mass transportation systems; to the Committee on Banking and Currency.

By Mr. ROE (for himself and Mr. CONLAN):

H.R. 15994. A bill to amend the Public Health Service Act to provide assistance for programs for the diagnosis, prevention, and treatment of, and research in, Huntington's disease; to the Committee on Interstate and Foreign Commerce.

By Mr. ROGERS (for himself, Mr. SATTERFIELD, Mr. KYROS, Mr. PREYER, Mr. SYMINGTON, Mr. ROY, Mr. NELSEN, Mr. CARTER, Mr. HASTINGS, Mr. HEINZ, and Mr. HUDNUT):

H.R. 15995. A bill to amend the Public Health Service Act to extend through fiscal year 1975 the scholarship program for the National Health Service Corps and the loan program for health professions students; to the Committee on Interstate and Foreign Commerce.

By Mr. ROSTENKOWSKI:

H.R. 15996. A bill exempting State lotteries from certain Federal prohibitions and for other purposes; to the Committee on Ways and Means.

By Mr. ST GERMAIN:

H.R. 15997. A bill to amend section 1902(a)(14)(B)(1) of the Social Security Act to make optional certain cost-sharing fees now required to be paid by some individuals under medicaid; to the Committee on Ways and Means.

By Mrs. SCHROEDER (for herself, Mr. CHARLES H. WILSON of California, Mr. NIX, Mr. FORD, Mr. MOAKLEY, Mr. UDALL, Mr. TRAXLER, Mr. BRASCO, Mr. CLAY, Mr. LEHMAN, Mr. HECHLER of West Virginia, Mr. MITCHELL of Maryland, Mr. BELL, Mr. CONYERS, Mr. HARRINGTON, Mr. FASCELL, Mr. STARK, Mrs. BURKE of California, and Ms. ABZUG):

H.R. 15998. A bill to amend title 39, United States Code, to provide additional standards to regulate the proper use of the penalty mail privilege on an official basis by Government departments, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. STEELMAN:

H.R. 15999. A bill to eliminate discrimination based on sex with respect to the appointment and admission of persons to the service academies; to the Committee on Armed Services.

H.R. 16000. A bill to enforce the first amendment and fourth amendment to the

Constitution and the constitutional right of privacy by prohibiting any civil officer of the United States or any member of the Armed Forces of the United States from using the Armed Forces of the United States to exercise surveillance of civilians or to execute the civil laws, and for other purposes; to the Committee on the Judiciary.

By Mr. TIERNAN:

H.R. 16001. A bill to authorize an experimental program to provide for care for elderly individuals in their own homes; to the Committee on Ways and Means.

By Mr. TIERNAN (for himself, Mr. ABDNOR, Mr. BELL, Mr. BENITEZ, Mr. CAREY of New York, Mr. DAVIS of South Carolina, Mr. DERWINSKI, Mr. HANLEY, Mrs. MINK, Mr. NIX, Mr. OBEY, and Mr. STARK):

H.R. 16002. A bill to commemorate the American Revolutionary Bicentennial by establishing a meetinghouse program, by making grants available to each of the several States for the purpose of acquiring and restoring certain historic sites with a view to designating and preserving such sites for use as meetinghouses in connection with such Bicentennial, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. TIERNAN (for himself and Mrs. HECKLER of Massachusetts):

H.R. 16003. A bill to amend the International Travel Act of 1961 to provide for Federal regulation of the travel agency industry; to the Committee on Interstate and Foreign Commerce.

By Mr. ARCHER (for himself, Mr. BAUMAN, Mrs. BOGGS, Mr. COLLINS of Texas, Mr. DUNCAN, Mr. KUYKENDALL, Mr. LEHMAN, Mr. OBEY, Mr. OWENS, and Mr. PRICE of Texas):

H.R. 16004. A bill to amend the Internal Revenue Code of 1954 to increase the corporate surtax exemption; to the Committee on Ways and Means.

By Mr. DENT:

H.R. 16005. A bill to amend title 38 of the United States Code so as to entitle veterans of World War I and their widows and children to pension on the same basis as veterans of the Spanish-American War and their widows and children, respectively, and to increase pension rates; to the Committee on Veterans' Affairs.

By Mr. FISHER (for himself, Mr. DAN DANIEL, Mr. DICKINSON, Mr. HICKS, Mr. HILLIS, Mrs. HOLT, Mr. MONTGOMERY, Mr. NEDZI, Mr. POWELL of Ohio, Mr. RANDALL, Mr. TREEN, Mr. WAGGONNER, and Mr. Young of Alaska):

H.R. 16006. A bill to amend section 2634 of title 10, United States Code, relating to the shipment at Government expense of motor vehicles owned by members of the Armed Forces, and to amend chapter 10 of title 37, United States Code, to authorize certain travel and transportation allowances to members of the uniformed services incapacitated by illness; to the Committee on Armed Services.

By Mr. EILBERG:

H.R. 16007. A bill to amend section 303 of the Communications Act of 1934 to require that radio receivers be technically equipped to receive and amplify both amplitude modulated (AM) and frequency modulated (FM) broadcasts; to the Commmittee on Interstate and Foreign Commerce.

By Mr. HARRINGTON:

H.R. 16008. A bill to amend the Outer Continental Shelf Lands Act to insure that the Federal Government has available to it reliable information on the nature and extent of energy resources in the undeveloped areas of the Outer Continental Shelf, and that any decision to develop such resources take place within the context of a national energy policy; to the Committee on Interior and Insular Affairs.

By Mr. LATTA:

H.R. 16009. A bill to amend the Disaster Relief Act of 1974 with respect to certain loan programs; to the Committee on Banking and Currency.

By Mr. LONG of Maryland (for himself, Mr. MURPHY of New York, Mr. ROY, Mr. LAGOMARSINO, and Mr. LUKEN):

H.R. 16010. A bill to prohibit the transfer of atomic technology to foreign powers without the express approval of the Congress; to the Joint Committee on Atomic Energy.

By Mr. MATHIAS of California:

H.R. 16011. A bill to amend the Federal Election Campaign Act of 1971, and title 18, United States Code, to reform Federal election campaign activities; to the Committee on House Administration.

By Mr. MURPHY of Illinois (for himself, Ms. ABZUG, Mrs. BURKE of California, Mrs. CHISHOLM, Mrs. COLLINS of Illinois, Mr. COTTER, Mr. EILBERG, Mr. GINN, Mr. MAZZOLI, Mr. METCALFE, Mr. MOAKLEY, Mr. OWENS, Mr. ROSE, Mr. STARK, and Mr. CHARLES H. WILSON of California):

H.R. 16012. A bill to establish an office for the House of Representatives to assist Members of the House of Representatives in conducting public opinion polls; to the Committee on House Administration.

By Mr. OWENS (for himself, Mr. RAILSBACK, and Mr. MITCHELL of New York):

H.R. 16013. A bill to regulate lobbying and related activities; to the Committee on the Judiciary.

By Mr. ROE:

H.R. 16014. A bill to provide for emergency relief for small business concerns in connection with fixed price Government contracts; to the Committee on the Judiciary.

By Mr. ROYBAL:

H.R. 16015. A bill to amend section 1(12) of the Interstate Commerce Act to provide that railroads shall not discriminate against the movement or interchange of railroad refrigerator cars not owned by a railroad, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. STEELE:

H.R. 16016. A bill to provide interim cost relief for customers of regulated public utilities; to the Committee on Interstate and Foreign Commerce.

By Mr. STEELMAN (for himself, Mr. LONG of Maryland, and Mr. COUGHLIN):

H.R. 16017. A bill to amend section 552 of title 5 of the United States Code to clarify certain exemptions from its disclosure requirements, to provide guidelines and limitations for the classification of information, and for other purposes; to the Committee on Government Operations.

By Mr. TIERNAN (for himself, Ms. ABZUG, Mr. BADILLO, Mr. BROWN of California, Mr. CONYERS, Mr. COTTER, Mr. EDWARDS of California, Mr. FROEHLICH, Mr. HARRINGTON, Mr. HECHLER of West Virginia, Mr. LEHMAN, Mr. LONG of Maryland, Mr. MOAKLEY, Mr. MOLLOHAN, Mr. MOSHER, Mr. OBEY, Mr. ROE, Mr. ROSENTHAL, Mr. ST GERMAIN, Mr. STOKES, and Mr. TRAXLER):

H.R. 16018. A bill to amend the Federal Power Act to prohibit public utilities from increasing any rate or charge for electric energy, by means of any fuel adjustment clause in a wholesale rate schedule, in order to reflect any increased fuel cost; to the Committee on Interstate and Foreign Commerce.

By Mr. TIERNAN:

H.R. 16019. A bill to establish an economic zone contiguous to the territorial sea of the United States; to the Committee on Merchant Marine and Fisheries.

By Mr. TIERNAN (for himself, Mr. MOAKLEY, Mr. PODELL, Mr. RODINO, Mr. ROYBAL, Mrs. SCHROEDER, and Mr. STARK):

H.R. 16020. A bill to direct the National Bureau of Standards to prepare building insulation standards; to the Committee on Science and Astronautics.

By Mr. WHITE (for himself and Mr. MCKAY):

H.R. 16021. A bill to amend title 44, United States Code, to strengthen the authority of the Administrator of General Services with respect to records management by Federal agencies, and for other purposes; to the Committee on Government Operations.

By Mrs. HANSEN of Washington:

H.R. 16027. A bill making appropriations for the Department of the Interior and related agencies for the fiscal year ending June 30, 1975, and for other purposes.

By Mr. ZWACH:

H.J. Res. 1093. Joint resolution to authorize the President to issue a proclamation designating the week in November which includes Thanksgiving Day in each year as "National Family Week"; to the Committee on the Judiciary.

By Mr. RODINO:

H. Con. Res. 566. Concurrent resolution to provide additional copies of hearings and the final report of the Judiciary Committee on the impeachment inquiry; to the Committee on House Administration.

By Mr. ANDERSON of Illinois:

H. Res. 1244. Resolution providing for radio and television broadcast coverage of proceedings in the Chamber of the House of Representatives on any resolutions to impeach the President of the United States during the 93d Congress; to the Committee on Rules.

By Mr. SCHERLE:

H. Res. 1245. Resolution creating a standing Committee on Small Business in the House of Representatives; to the Committee on Rules.

PRIVATE BILLS AND RESOLUTIONS

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

By Mrs. HECKLER of Massachusetts:

H.R. 16022. A bill for the relief of John A. Ellis; to the Committee on the Judiciary.

By Mr. MATHIAS of California:

H.R. 16023. A bill for the relief of Wesley P. Kliewer and Lois P. Kliewer; to the Committee on the Judiciary.

By Mr. PETTIS:

H.R. 16024. A bill 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; to the Committee on Armed Services.

By Mr. STOKES:

H.R. 16025. A bill for the relief of Noel Abueg Emde; to the Committee on the Judiciary.

By Mr. VEYSEY:

H.R. 16026. A bill 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; to the Committee on Armed Services.

EXTENSIONS OF REMARKS

INFLATION CONTROL NEEDED

HON. ALBERT H. QUIE

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 18, 1974

Mr. QUIE. Mr. Speaker, it is time for the Government to come to grips with the inflation problem. This theme has been heard over and over, but lip service has been given to it rather than some hard policy decisions.

Inflation hurts every consumer and is especially hard on retired Americans. Everyone stands to gain by bringing inflation under control, and I strongly urge the Congress and the President to make this their No. 1 priority. An editorial appearing in the July 13 Red Wing Republican Eagle makes this plea, and I submit it for the benefit of my colleagues:

PRESIDENT SHOULD CALL AMERICA TO SACRIFICE AGAINST INFLATION

The one ray of hope we see on this country's very hurtful inflation front is that the American public is now really up in arms on the subject.

The evidence is in all the many coffeetable and across-the-back-fence conversations. Congressmen, most sensitive of all to the public mood, are getting the very strong message that rising living costs are now Public Enemy No. 1.

"Inflation has replaced Watergate as the major concern of most people," the First District's Al Quie said in a Hastings interview this week after circulating around Southeastern Minnesota.

For President Nixon, this acute public awareness and anxiety offer a golden opportunity to assume real leadership on the nation's most urgent problem.

According to all the pundits, Richard Nixon's most effective anti-impeachment strategy is to portray himself anew as the forceful White House dynamo carrying on America's business. He's been playing this role abroad, Mideast and then Soviet Union. Now he can move front and center on the domestic stage, rallying the nation against this cancerous inflation.

How?

Certainly not price and wage controls. We've gone that route before, beginning August, 1971, and we're not going to make that mistake again. Significantly, Canadian Prime Minister Pierre Trudeau won a national election victory Monday on a platform of opposing the 90-day wage-price freeze that his Conservative opposition was offering.

Nixon ought to begin with a really hard, tough move toward a balanced federal budget. This is what Treasury Secretary William Simon has been advocating, and it seems to us that the public atmosphere is now right to make it stick.

The President would be carrying the fight to the Democratic Congress. He would have to offer good substantial budget cuts up and down the line, including Defense. He'd be taking the knife to some cherished domestic programs, but he'd put it to the Congressional spenders this way: "Here are the cuts to make. I recommend them. But if you don't have the stomach for that, here is the alternative: a tax hike for all Americans above minimum levels. One way or the other we're going to get federal spending back in line with revenues for the first time in many years."

Simultaneously, the President would arrange a federal watchdog operation to put the spotlight on excessive wage and price increases. No legal controls, not a lot of "jawboning," but just a clear, bright spotlight to show who's getting greedy.

For it's time for some basic public education in economics, and as President Teddy Roosevelt is famous for saying, the White House is a "bully pulpit." Let President Nixon lay out the facts of economic life for all to see. Let the American public see what companies and unions are gouging the rest of us.

The theme of this Nixon anti-inflation offensive would be, above all, sacrifice. Sure the budget cuts will hurt; sure the wage boosts won't be as big as people would like; but we're all in this together; it's time to get back to economic fundamentals; together, all suffering together, we can lick this inflation which threatens to undermine America.

And this time the President must make it clear there's no turning back on account of political outcries. What was that message from General Grant in Northern Virginia—"I'll fight it out on this line if it takes all summer."

President Nixon should make it clear that he's in the anti-inflation, balance-the-budget, restrain-wage-and-price-hikes fight "for the duration"—which for him is January, 1977, if he's not impeached.

A U.S. economy restored to an even keel would be a great Nixon gift to America—and a great U.S. example for America's inflation-sick allies.

PROPOSED AMENDMENT TO H.R. 11500

HON. JOHN BRECKINRIDGE

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 18, 1974

Mr. BRECKINRIDGE. Mr. Speaker, last weekend I came across a news article—a copy of which is included at the close of my remarks—in Louisville's Courier Journal by my good friend, Don Walker, describing in part the observations of the representatives of some 24 States touring strip mining activities in mountainous eastern and level western Kentucky. The three busloads of officials were touring those areas under the auspices of the National Legislative Conference, an adjunct of the Council of State Governments which maintains its national headquarters in my district at Lexington, Ky. The article discusses in some detail the growing practice of "flat topping," as distinguished from contour stripping, in Appalachia, and what is being done by one of the industry's leaders in reclamation. The results were exemplary but not necessarily the rule. The reclaimed area was described as "lush fields of grass, some of it used for horse and cattle grazing, and a vineyard and fruit trees growing on land recently mined by Falcon Coal Co. in Breathitt County."

It is apparent that such flat-topping practices, responsibly reclaimed under the properly enforced provisions of H.R. 11500, could lead to the creation of new farmlands, recreational areas, town and developmental sites in country now both uninhabitable and unproductive. To preclude such prospects in poverty-stricken Appalachia would appear both unnecessary and counterproductive.

While the language of H.R. 11500 is subject to construction that would permit such mining and reclamation practices for the creation of agricultural and recreational table-top land—see section 211(d)—certain language contained in the committee report No. 93-1072 could create an ambiguity from which it could be argued that the act and Congress intended to prohibit such development—see pages 106-7 of the report.

Believing that it was not the committee's intention to proscribe such productive side benefits, my question is: Will section 211(d), which allows for exceptions from the regulations "in cases where an industrial, commercial, residential, or public facility development is proposed for postmining use of the affected land"—not agricultural or developmental—preclude such strip mined land from such flat-topping reclamation under the "approximate original contour" definition for the stated purposes?

I intend to offer the following amendment for the purpose of insuring the legality of the stated practices and purposes:

AMENDMENT TO H.R. 11500, AS REPORTED OFFERED BY MR. BRECKINRIDGE

Page 197, line 22, immediately after "dential," insert "agricultural, developmental,".

CONFERENCE TOURISTS VIEW RECLAMATION

(By Don Walker)

JACKSON, KY.—Eighty-seven people—most of them legislators—from 24 states were given a three-hour tour yesterday of strip mines operated by a company with one of the best reclamation reputations in Eastern Kentucky.

Some of the legislators and other officials said they were impressed with the display of what can be done to conserve surface-mined land.

The three busloads of officials saw lush fields of grass, some of it used for horse and cattle grazing, and a vineyard and fruit trees growing on land recently mined by Falcon Coal Co. in Breathitt County.

The group was part of the National Legislative Conference, which is holding a meeting in Louisville.

State Rep. Virgil J. Pearman, D-Radcliff—one of four Kentucky legislators on the tour—looked out over a rolling valley created by the literal removal of a mountain top to dig out coal.

"There's enough level land for a small city," Pearman said, "But I'm sure this is the best operation up here."

Earlier, Roy Mullins, vice president of Falcon, had stood beside an experimental vineyard where 1,000 grapevines seemed to be flourishing on the rocky soil and noted that the company's operation would leave the area with "thousands of acres of level land."

Mullins explained to this reported that Falcon expects to mine leases on 40,000 acres of land over the next 10 years. Of 20,000 acres of land disturbed, about 10,000 acres of former mountain-peak land will be left relatively level—"gently rolling," he said.

Much of Falcon's mining is done by flat-top procedure—actual removal of mountain tops—in contrast to the contour strip-mine

method in which cuts are made into the sides of mountains are made to take out the coal.

John Roberts, director of Kentucky's Division of Reclamation, said in a separate interview that more than 75 per cent of the acreage now being mined in Eastern Kentucky is being done by the flattop method.

Roberts maintained, however, that at least half and perhaps most of the coal operators do a job comparable to Falcon's in reclamation as far as vegetation plantings are concerned.

The group was treated to a box lunch, furnished by Falcon, atop a mine highwall that separates a reclaimed area from the University of Kentucky's Robinson Forest.

Mullins told the group that the nearby university forest contained 160 million tons of coal beneath its soil. He said the university, so far, has refused to consider leasing any of the land for mining.

But Mullins expressed his belief that a need for funds and changing times might change the university's position.

"If they ever want us to, we'd be glad to help them dig out that coal, and it would be worth at least $160 million to UK," Mullins said.

Robinson Forest was willed to the university for use in the furtherance of good forestry practices.

Transportation and related costs of the tour were paid for by the National Legislative Conference, an arm of the Council of State Governments, which has national headquarters in Lexington.

The tour is scheduled to continue in Western Kentucky today.

IMPEACHMENT IN AMERICAN HISTORY

HON. EARL F. LANDGREBE

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 18, 1974

Mr. LANDGREBE. Mr. Speaker, I would like to call the attention of my colleagues to an article entitled "Impeachment in American History" by Dr. John Sutherland Bonnell. No one who understands the importance of an impeachment proceeding ought to be ignorant of the history of impeachment. Dr. Bonnell has offered a concise history of Presidential impeachment that deserves the consideration of every Member of Congress.

The article follows:

IMPEACHMENT IN AMERICAN HISTORY

(By John Sutherland Bonnell)

(Dr. Bonnell is author of "Presidential Profiles", published by Westminster Press, based on the lives of thirty-six presidents of the United States. He served for twenty-seven years as senior minister of the Fifth Avenue Presbyterian Church, New York. He was educated in universities and seminaries in Canada, England and New York. He has been the recipient of ten honorary doctorates and has authored twelve books. On retirement Dr. Bonnell became President for three years of the New York Theological Seminary and is now actively engaged in lecturing and writing.)

"Impeachment" is the word. It is now on everybody's tongue. Many Americans regard impeachment as a simple and convenient means of getting rid of an unwanted National leader. They appear to be oblivious of the traumatic effect such an event would have on the American people and indeed also on nations friendly to us. President James Buchanan asserted that, "It would be an imposing spectacle for the world."

Americans right now should be doing their history homework, so that we may become better informed on the presidential crises of the past and discover how they were resolved. We need an informed perspective in order to see current events in their relative importance.

WASHINGTON—THE FIRST TO BE THREATENED

It may come as a surprise to some to learn that our first President, George Washington, was threatened with impeachment by political enemies. The charge against him was "A daring infringement of our Constitutional rights." It arose when the Jay Treaty was concluded with Great Britain in 1794.

William Roscoe Thayer, a biographer of Washington, declares that a bitter struggle was precipitated when the President's opponents in Congress demanded that he hand over the correspondence and exchanges that led up to the signing of the Jay Treaty. This George Washington resolutely refused to do, even though he had neither precedent nor legal landmark to guide him. Dr. Thayer remarks that Washington clearly foresaw the danger of such a concession to his own administration and also the likelihood that it would be used against his successors in the Presidential office.

During and after confrontation with his antagonists Washington was deeply hurt by assaults not only on his capacity to govern but also on his character and honor. He wrote, "Every act of my administration had been attacked in such exaggerated and indecent terms as could scarcely be applied to a Nero—or even to a common pickpocket." George Washington was undeniably "first in war" . . . but several decades had to pass before he was "first in the hearts of his countrymen."

Andrew Jackson was swept into the Presidency on his reputation as a military commander and by a hero's role in the war of 1812. Yet even before his election, as soon as he became involved in public life, he was deeply hurt by continuous onslaughts on his character and the aspersions upon the virtue of his beloved wife Rachel. Jackson in office manifested something of the inner strength and determination of Abraham Lincoln. These qualities he demonstrated by preserving the Union when it was dangerously threatened in March 1833.

During a fierce controversy over chartering the Bank of the United States, Congress passed several resolutions extolling the Bank and censuring the President. His political foes employed censure, which has been called a "soft impeachment," only because they could not muster sufficient votes to impeach him. Strangely enough, long before he had entertained the remotest hope of himself becoming President, young Andrew Jackson had demanded that George Washington should be impeached.

Senator Calhoun, in a violent speech on the floor of the Senate, said that Jackson's "bank deprivations" were "adding robbery to murder." Later the President reported that he had received five hundred letters from people threatening to kill him. Indeed he escaped death only because a would-be assassin's two pistols both misfired. Tested later by the police, both fired perfectly. Professor Sidney Hyman commenting on these happenings, writes, "In the final pathological stages of the efforts, (personal) attacks of this sort have led directly to the death of three presidents and to attacks on others." President Jackson retired from office more popular than when he was first elected.

Louis Brownlow in "The President and the Presidency" writes "Every President when he has been in office, has been denounced as a despot, a tyrant, a dictator, as one who was using the power of the Government to achieve his personal ambitions. The only President who was not so denounced was William Henry Harrison; he lived only one month after he was inaugurated."

Almost identical language is used on this subject by Marcus D. Cunliffe and Sidney Hyman, the latter described by historians as an "expert on the Presidency."

IMPEACHMENT OF ABRAHAM LINCOLN PLANNED

Abraham Lincoln who was President of the United States during the most critical years of this nation's history, came threateningly close to impeachment in the winter of 1862–1863. Secret meetings were held in Washington to lay plans for launching an impeachment. Racial Republicans with reactionaries of both parties wanted a man in the Presidency more obedient to their wishes.

Early in the summer of 1865 Lincoln's rating sank to its lowest point, even among a large proportion of prominent citizens. Richard Dana, author of "Two Years Before the Mast," wrote to Charles Francis Adams, who was American Minister to London at that time, "The most striking thing in Washington is the lack of personal loyalty to the President. It does not exist. He has no admirers, no enthusiastic supporters, none to bet on his head." Dana added that Lincoln was "a good Western jury lawyer but he is an unutterable calamity today where he is."

Carl Sandburg comments, "For weeks the denunciation flowed on mixed with clamor and sniping criticism. Albert G. Riddle (Republican of Ohio) said that, "The just limit of manly debate had been brutally outraged." The press had caught up and re-echoed the clamor.

The impeachment scheme failed but the more merciful assassin's bullet succeeded. America had gotten rid of Abraham Lincoln.

THE TRIAL OF ANDREW JOHNSON

The classic illustration of what American presidents, while in office, have had to endure and which is most pertinent to our time, is the almost successful impeachment and conviction of President Lincoln's successor, Andrew Johnson . . . His efforts to put into effect the more generous policies that Lincoln had advocated with respect to the South and other controversial matters brought him into sharp conflict with members of both the House and the Senate. Everything came to a head when he dismissed Secretary of War Edwin Stanton who not only opposed the President but secretly acted as an informant for his bitterest opponents. Congress had just passed a law designed to block such an action by an American President and re-installed Stanton.

President Johnson in his defense claimed that his viewpoint would have been supported by every President from Washington to his own day. And he was right if John Adams' position was typical of other former presidents. Long before the Johnson issue had arisen President Adams during a heated discussion remarked "if the President of the United States has not enough authority to change his own secretaries, he is no longer fit for his office."

If President Johnson had meekly accepted such a law as Congress had proposed it would have broken down the Madisonian concept of "checks and balances" in the interrelationship of the President and the Congress. The uniquely important office of the Presidency would have been degraded into some kind of political secetariat that could readily be made the tool of designing politicians.

Many Americans are clamoring today inside and outside of Congress for the impeachment of President Nixon as though it were a simple matter to accomplish with clear-cut procedures and would entail a minimum disturbance to either our national life or the structure of American government. They should read the story of the whole sordid business of the impeachment by the

House of Representatives and attempted conviction by the Senate of President Andrew Johnson.

Dr. Ronis W. Konig, author of "The Chief Executive" states that President Johnson's trial by the Senate was presided over by a Chief Justice "who wanted to be president; having a craving for the office that Lincoln once likened to insanity." In line of succession was the "president protempore" of the Senate whom the author describes as "vulgar and vituperative." The trial lasted eleven and a half weeks. One thousand tickets were printed valid for one day and "furiously competed for." The gallaries were crowded with the senators, their wives and daughters, "blooming with finery"—scores of reporters and distinguished visitors from other countries attended.

The "radicals" secured an adjournment for ten days, despite the objection of the Chief Justice, to line up every possible vote against the President. The prosecutor at the trial before the Senate called President Johnson: "a traitor, a tyrant, a usurper and an apostate."

The attempt at conviction failed by one vote.

"The one heroic figure to emerge from the contemptible proceedings was Senator Edward G. Ross, a soldier and journalist of Kansas, who voted "No." He withstood incredible pressure with soldierly firmness even though, to use his own words, "friends, position and fortune were ready to be swept away" and he stood "looking into his own grave."

By this heroic act, our system of American Government with its delicate balance of responsibility between the legislative and executive branches, fashioned with pains-taking care through three-quarters of a century, was preserved. A fearsome threat to representative democracy in America went down to defeat by a single vote. If President Johnson had been successfully convicted, the door would have been left wide open for the dismissal of any President, on political rather than legal grounds. Professor Rexford G. Tugwell writes that the radicals in Congress were determined to reduce the Presidency to "ministerial status."

IMPEACHMENT—A MEGATON BOMB

The threat of impeachment and conviction has been likened to that of a megaton bomb—too frightening to contemplate except as a last and desperate expedient. Professor Clinton Rossiter regarded impeachment as "The extreme medicine of the Constitution, so brutally administered in the one instance in which it was prescribed as to provoke a revulsion." President Jefferson could not even envision a situation where it might lawfully be used.

Despite the ominous words of Professor Rossiter and the skepticism of President Jefferson the fact remains that impeachment is still an integral part of the Constitution of the United States. How then do we account for the fact that no President of the United States has been impeached and convicted in almost two hundred years of our Nation's history, in spite of several abortive attempts to apply impeachment and one unsuccessful effort to obtain conviction. One reason undoubtedly is because of the dire penalties entailed. These are set forth in the Articles of the American Constitution: Article I. Section 3(7) which reads in part: "removal from Office, disqualification to hold and enjoy any Office of honor, Trust or Profit under the United States:" "But the Party convicted shall nevertheless be liable and subject to Indictment, Trial, Judgment and Punishment, according to Law."

If the convicted President should happen to be a family man, the pall of disgrace would fall not only on himself but on his wife, his children and his grandchildren "to the third and fourth generation." It might well cut him off completely from the sources of livelihood for which he has spent the greater part of his lifetime in preparation. And who will aver that the Nation that elected him will not itself be on trial before the eyes of the whole world?

THE 50TH ANNIVERSARY OF THE U.S. FOREIGN SERVICE

HON. PAUL W. CRONIN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 18, 1974

Mr. CRONIN. Mr. Speaker, as I mentioned to my colleagues yesterday, this month we are celebrating the 50th anniversary of the U.S. Foreign Service—which was established through the actions of Congressman John Jacob Rogers, of the Fifth Congressional District of Massachusetts. I have written a letter to Secretary of State Kissinger urging establishment of a John Jacob Rogers Achievement Award to be awarded annually in recognition of the dedicated service of one of our Foreign Service officials. I am hereby inserting a copy of my letter to Secretary Kissinger in the CONGRESSIONAL RECORD, and I am urging my colleagues to join in strong support of establishing such a tribute to one of our distinguished former colleagues:

JULY 18, 1974.

Hon. HENRY KISSINGER,
Secretary of State,
Department of State,
Washington, D.C.

DEAR MR. SECRETARY: Since July marks the 50th anniversary of the founding of the U.S. Foreign Service, I feel that we should take this opportunity to remember its founder—John Jacob Rogers. As the Congressman from the 5th Congressional District of Massachusetts—which the Honorable John Jacob Rogers served for so many years—I would like to urge that the Department of State establish an Achievement Award in his name.

Congressman Rogers faced considerable opposition in his efforts to formalize our Diplomatic Corps into the forceful body it is today. However, his foresightedness resulted in great achievements on the part of our Foreign Service which represents us with distinction in our embassies around the world. As you know, in 1924, when Congressman Rogers' legislation became law, there were only 54 consular posts abroad served by 122 persons in diplomatic service and 511 consular officials. Today, because of the courage and vision of Congressman Rogers, we have 129 embassies served by 3,290 persons.

Because of these achievements, I strongly feel that this nation should pay tribute to John Jacob Rogers by establishing an Achievement Award in his name to be awarded annually in recognition of the dedicated service of one of our Foreign Service officials. Congressman Rogers not only established the standards held by the Foreign Service, but was an individual who best exemplified those qualities.

I sincerely hope the Department of State can gain swift approval of such an award. If you can suggest any way the legislative branch can assist with the establishment of this award, please do not hesitate to let me know.

Thank you for your continued cooperation.

Sincerely,

PAUL W. CRONIN,
Member of Congress.

COMMUNITY DEVELOPMENT BLOCK GRANTS

HON. ROBERT N. GIAIMO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 18, 1974

Mr. GIAIMO. Mr. Speaker, the Honorable Bartholomew F. Guida, mayor of New Haven and president of the Connecticut Conference of Mayors and Municipalities, recently sent me a letter outlining his concern over the community development funding formula authorized in title I of H.R. 15361, the Housing and Urban Development Act of 1974.

As one of only 25 Members who voted against this bill when it was brought to the floor of the House on Thursday, June 20, I welcome Mayor Guida's letter and share his concern.

I have always supported legislation which works toward the goal, embodied in the 1949 Housing Act, to provide a decent home and suitable living environment for every American family. But this bill does not do that.

The provisions contained in title I, which form the heart of the bill, authorize a new $8.05 billion program of community development block grants to start in 1975. These provisions are wholly inadequate and discriminatory.

They are inadequate because under the guise of consolidation the bill effectively eliminates existing programs such as Urban Renewal and Model Cities without providing any replacement.

They are discriminatory, because the new funding formula, based in part on population as well as poverty levels and housing overcrowding, favors communities that have ignored HUD programs in the past.

A lot has been said about the hold harmless provision in this bill. The plain truth is that the hold harmless provision ends after 3 years. This safeguard provision is actually a formula to provide for a rapid dropoff in community development funding.

Housing legislation that forces cities which have been improving their urban environment to reduce or eliminate their rebuilding efforts is bad legislation. Housing legislation that penalizes cities for trying to provide housing under the existing housing laws is bad legislation. I certainly recognize the urgent need for comprehensive housing legislation. We have a serious housing problem in this country. But the community development funding formula in this bill will not meet that need; it only aggravates that problem.

Before this bill was reported to the House floor, I joined many other Members in sending a letter to the chairman of the Banking and Currency Committee expressing my concern over the community development funding formula. I opposed passage of the bill when the funding formula was included in title I of the bill. Altogether, more than 100 cities will have their entitlement phased out or eliminated within 6 years under this bill. Mayor Guida explains the severe impact this legislation will have

on several cities in Connecticut. I insert his letter at this point in the RECORD and commend it to the attention of my colleagues:

NEW HAVEN, CONN., *June 26, 1974.*

Representative ROBERT N. GIAIMO,
Rayburn House Office Building,
Washington, D.C.

DEAR BOB: I am writing to you to express my concern about the impact of pending Community Development-Block Grant legislation upon Connecticut's cities and towns and to urge you to do everything within your power to ensure that the funding provisions of Senate version of this bill (S3066) are adopted by the Senate-House Conference instead of the provisions of the House bill (HR 15361).

The funding formula of the House bill would severely decimate the ongoing community development effort throughout the State. Federal grant entitlements to 13 Connecticut cities having populations under 50,000 and with ongoing urban renewal or model cities programs would be terminated, making such cities wholly dependent upon receiving discretionary funds through the State. The House bill would sharply curtail the allotments of 11 other metropolitan cities in the State, including New Haven and would omit from the funding cycle five cities in Connecticut which would be funded under the Senate version. I am enclosing a fact sheet on the financial impact to Connecticut cities under the House version.

Under provisions of H.R. 15361, which phases out the hold harmless protection formula in the fourth year, New Haven's allotment would plummet from $17,078,000 during first two years of the proposed legislation to $2,646,000 in the sixth year, a reduction of 85%. While New Haven suffers the largest reduction in absolute funding of any city in the State, other cities suffer equally great reductions in funding. For example, New London's funding is reduced over the life of the bill by 93%; New Britain and Waterbury by 72%; Hartford by 68%; Norwich by 61%; Danbury by 47%; Bristol by 39%; Bridgeport by 36% and Stamford by 32%.

If this City applied all the funds it would receive under the House version ($69.8 million) to existing Urban Renewal commitments alone, we would still fall almost $100 million short of carrying out its existing Urban Renewal commitments, let alone commence any new undertakings authorized under the bill. As you know, the House version combines other categorical grant-in-aid programs besides Urban Renewal, such as Model Cities, Water and Sewer Grant Program and the Section 312 Rehabilitation Loan Program, each of which has heavy funding demands in our city.

On the other hand, the Senate version of the bill maintains a funding momentum during its total four years span and could make $75 million available to New Haven, or about $5 million more than the House version would allow in six years. While even this allotment is short of our needs, it would make it possible for us to continue our programs.

While there are certain provisions of the House version we prefer, such as the 100% funding instead of the 90% funding under the Senate version, overall the Senate version benefits Connecticut whereas the House version is destructive to the overwhelming majority of the State's active cities and towns. In addition, we prefer the emphasis on physical development under the Senate version as the legislation simply does not provide sufficient funds to carry out both physical and social programs. If Congress really wants to help America's cities it would pass sufficient appropriations to enable cities to carry out physical development and social development programs instead of attempting to divert the limited physical development funds to social programs.

I hope you agree with us that the great effort the cities and towns in Connecticut have made in the areas of physical redevelopment should not be negated by the House version of community development-block grant legislation, which makes no reference to past performance or commitment. It is clear that Connecticut's cities and towns simply do not have the financial resources to pick up the slack if we are abandoned by the Federal government.

Thank you for any efforts you may make on our behalf.

Sincerely,

BARTHOLOMEW F. GUIDA.

IMPACT OF H.R. 15361 UPON COMMUNITY DEVELOPMENT FUNDING FOR CONNECTICUT CITIES

METROPOLITAN CITIES WITH REDUCED AUTOMATIC ENTITLEMENT UNDER H.R. 15361

	Year 1	Year 6	Percent of decline
Bridgeport	4,107,000	2,613,000	36
Bristol	1,060,000	642,000	39
Danbury	1,198,000	631,000	47
Hartford	10,275,000	3,283,000	68
New Britain	4,181,000	1,184,000	72
New Haven	17,078,000	2,646,000	85
West Haven	727,000	624,000	14
New London	6,418,000	465,000	93
Norwich	1,478,000	570,000	61
Stamford	2,034,000	1,376,000	32
Waterbury	5,679,000	1,607,000	72
Ansonia	909,000	0	100
East Haddam	[1] 115,000	0	100
Enfield	1,123,000	0	100
Farmington	[1] 154,000	0	100
Glastonbury	910,000	0	100
Manchester	[1] 470,000	0	100
Middletown	267,000	0	100
Portland	393,000	0	100
Suffield	[1] 9,000	0	100
Vernon Town	[1] 25,000	0	100
West Hartford	479,000	0	100
Williamantic	1,510,000	0	100
Windsor Locks	710,000	0	100

METROPOLITAN CITIES WHICH WOULD NOT BE ELIGIBLE FOR FUNDS UNDER H.R. 15361, BUT WOULD RECEIVE ALLOTMENTS UNDER S. 3066

	Annual funding S. 3066
Derby	506,000
Stratford	541,000
Bloomfield	[1] 673,000
East Hartford	439,000
East Haven	131,000

[1] Cities which no longer have active redevelopment programs.

WE'VE COME A LONG WAY

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 18, 1974

Mr. DERWINSKI. Mr. Speaker, as we enter into the bicentennial period of our Nation's history, I believe it is especially appropriate that we recognize, in the proper manner, the solid foundation on which America's heritage and virtues were built.

One of the most positive and, I believe, accurate accounts of the American scene was contained in an editorial in the July 4, Suburban Life, a publication serving Cook County, Ill. I am pleased to insert the editorial at this time:

WE'VE COME A LONG WAY

Our founding fathers knew it wouldn't be easy nearly 200 years ago when the original 13 states got off to a shaky start. But that didn't stop the early colonists from declaring their independence of King George III and his tyranny.

It would have been easier to pay the king's high taxes and to submit to his rules and regulations without representation. But these early Americans chose the harder road, and we have been the beneficiaries. Their sacrifices and toil made it possible for this nation to become the greatest land on earth.

Our country's hard fought freedom has been threatened many times, but we've always put our differences aside and teamed up to present a united front to the world.

External threats seem to always unite us into voluntary cooperation and personal sacrifice. A recent example was the Arab oil cutoff and the resulting fuel oil and gasoline shortages last fall.

No one likes to restrict his driving habits and reduce his heating or cooling plant output. But Americans enjoy even less a game of blackmail with some small Mideast countries which control the majority of the world's oil resources.

As our founding fathers sacrificed, now it's our turn. Of course, we have it a lot easier than they did because this nation still has a lot going for it, despite Watergate and our economic problems.

Many citizens have had a rude awakening in recent months with continued disclosures of government corruption, but the strength of our democratic system is more evident each day as it continues to function under stress.

Yes, we still have a lot going for us. Everyone should be willing to continue the preservation of our natural resources. Although oil supplies are more plentiful with the easing of tensions in the Mideast, prices are still high, threatening a favorable trade balance that is an important pillar of prosperity.

Conservation of oil products, particularly gasoline, thus can have a twofold purpose, not only making sure there is enough to meet our needs but also contributing to our fight against inflation.

These are essential to maintain the way of life which our forefathers envisioned and to preserve the freedoms that have set an example for the rest of the world.

May we continue to stand as a strong and united democracy, proclaiming freedom and liberty to the world. It will take work, and now it's our turn.

PERSONAL ASSETS

HON. BILL FRENZEL

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 18, 1974

Mr. FRENZEL. Mr. Speaker, on pages E2391 and E2392 of the CONGRESSIONAL RECORD of April 22, 1974, I included a statement describing by personal assets and some of my feelings about the publication of them. On pages E3044 and E3045 of the RECORD of May 16 I published a statement showing that I had filed by 1972 income taxes late and making other personal disclosures. Today I am publishing another personal disclosure which relates to those two items.

Last week I received a check from the Treasury covering the refund claimed in my 1972 tax report.

While I have no knowledge that my return has been examined and found acceptable, the refund check I received does appear to be preliminary support for the propriety of my 1972 return.

All of the above information has been made available to my local press and, insofar as possible, the people of my district.

A few summary points should be made:

First. My taxes were paid, and overpaid, in advance.

Second. Insofar as I am aware, there is no penalty for my admitted error.

Third. I have received a refund for the taxes I overpaid for 1972.

Fourth. I am informed by tax authorities that had I been a private citizen, or had I chosen not to reveal this matter, there would have been no disclosure, since the reports would be protected by privacy statutes.

Fifth. The disclosure was made by me to my constituents, because I felt that at a time of great lack of confidence in Government the public deserved to know that I made a mistake. In the case of many other problems of personal finance, election campaigns, and other irregularities of well-known public figures, the revelations came from external agencies. In my case, the disclosure came from me.

Any constituent who wishes to discuss the matter further is encouraged to contact me personally.

CAPTIVE NATIONS WEEK

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 17, 1974

Mr. GILMAN. Mr. Speaker, the week of July 14 through July 20 has been declared Captive Nations Week to commemorate those nations which suffer oppression at the hand of the Soviet Union. One hundred million persons living in Eastern and Central Europe are being denied fundamental rights and freedoms which we, as Americans, consider essential to mankind. For this reason, in 1959 Public Law 86–90 was adopted to set aside the third week in July as Captive Nations Week, encouraging citizens and legislators of the United States to recognize this oppression and to examine the role of other nations as well as our own role in light of Soviet domination.

Such a gesture calls attention to the values which are symbolized and respected by Americans, those values and rights which members of captive nations cannot, and might never experience. Those living under Soviet domination are denied intellectual license, freedom of individual expression, the opportunity for justice; but equally important are the rights basic to humanity which are repeatedly denied to the more than two dozen captive nations. It is important not to lose sight of this, especially as we move into a new phase in our relationship with the Soviet Union. There is a tendency to ignore those silent nations because their constant struggle against oppression, domination, and injustice is often suppressed, but we must remember their plight and encourage others to recognize the situation of these 100 million, too often silent, Soviet oppressed.

By observing Captive Nations Week from July 14 through the 20, we demonstrate our concern for these nations and our desire for their freedom. I urge all Members of Congress to join with me in support of Captive Nations Week. I believe this gesture to be significant and illustrative of a desire for the freedom of all men.

SCHOOL BUSING: AN ISSUE OF DISCONTENT

HON. BERTRAM L. PODELL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 18, 1974

Mr. PODELL. Mr. Speaker, the issue of busing schoolchildren is one that has disturbed both my constituents and myself. I am presently and always have been opposed to the mandatory and involuntary busing of schoolchildren for the purpose of meeting racial and ethnic quotas and have so voted on the floor of the House. However, this in itself is not enough. The administration must address itself to this problem as I plan to do. First, however I would like to explain my opposition to these measures.

No. 1, the busing of schoolchildren into strange neighborhoods is a serious threat to their health and safety. The use of existing school buses exposes our children to many potential safety hazards and danger. Additionally, it would require several billions of dollars for the purchase of buses including drivers, maintenance, et cetera. That money would be far better spent on improving education and building of additional classroom space.

Second, there is not satisfactory evidence that busing aids the educational process. That under current law, the fact is when a poor child is bused into a middle-class neighborhood, that school does not receive any of the Federal funds that are allocated to deprived school areas.

Third, although proponents of busing argue that it helps race relations, I believe that, in fact, it increases racial tensions. The poor child is forced to compete with students who have been provided with early educational enrichment and therefore, are better prepared. The stiff classroom competition may overwhelm the child and thereby decreases the child's motivation to learn, and also creating additional resentment and promulgating racial tension.

Lastly, and equally important is that this Nation's heritage of a free neighborhood public school system is at stake. People in this country choose their homes many times, in order that their children will be close to their school. It is a horrifying experience for both parent and child to be bused away from a neighborhood school. If busing continues, the result will be a system where there will be two schools under one roof, as white middle-class students who are educationally prepared will be placed in honor classes and the deprived students will be placed in other classes.

Racial reconciliation and quality education are among the fundamental issues that face this Congress. I would like to offer into the RECORD some affirmative alternative proposals to busing that I feel are sorely needed: First, this would be the encouragement of voluntary busing of those children who choose to change their schools. Second, there ought to be a mass infusion of Federal funds into those areas that need remedial reading teachers, guidance counselors, and special problem teachers. And third, more money given to educational programs for preschoolers such as Head Start, and specially trained day-care centers.

I feel my position with these affirmative alternatives to busing provide a sound base for dealing with the problems of quality education and racial reconciliation. I hope my colleagues join with me in this effort toward these goals.

SECRETARY CALLAWAY TAKES TRIP TO LATIN AMERICA

HON. BO GINN

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 18, 1974

Mr. GINN. Mr. Speaker, a news story which appeared in the Washington Post on July 16 carried a report about criticism being leveled at Secretary of the Army Howard "Bo" Callaway regarding a current trip by the Secretary to Latin America.

I regret very much that this report gives the impression that Secretary Callaway is in some way trying to stimulate interest in increased sale of arms among Latin American companies. The facts are that the Secretary is traveling in Latin America on official business that relates directly to U.S. military affairs.

His itinerary includes a brief stopover in Panama, where he has discussed the affairs of the Panama Canal Zone with the Governor, to be followed by visits to Chile, Ecuador, and Peru. While in these countries he will have discussions with the U.S. Army personnel of the military assistance advisory groups. In addition, he will pay courtesy calls on the senior military and civil defense officials in each of these three countries and also visit their various Army units, service schools, and academies. He is scheduled to return to Washington on the 24th of July.

I have an extremely high personal regard for Bo Callaway and would like to declare today that he is a man of the very highest integrity and capability. He has an unblemished record of service to the Nation both as a private citizen, as a former Member of Congress and now as a key leader in our national defense picture. I believe it is important that we all know the facts regarding the Secretary's current trip.

REVENUE SHARING

HON. ROBERT L. LEGGETT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 18, 1974

Mr. LEGGETT. Mr. Speaker, in light of the recent fourth quarter payments of Federal revenue sharing funds for the fiscal year 1974, I would briefly like to share my views and observations on the effects of this program on communities in my district. I would also like to share with the Congress the comments of the city administrator of Yuba City, Calif., Peter Harvey, concerning the effects of Federal revenue sharing on Yuba City, a moderate size community in the heart of the Sacramento Valley, and those of the city manager of the city of Dixon, Calif., Jack Meline.

It has been established in many of the communities in my district that revenue sharing money has increased fiscal flexibility by supplementing restricted and general funds in order to provide greater community social service oriented projects. Such projects have included, in one county, funds for; parks, free clinics, the county health council, senior citizens nutrition program, child programs, minority community services, mental health care programs and limited mass transit.

The fiscal flexibility has also been responsible for a noticeable increase in citizen participation in the budget process of many of the communities in my district. The greater input has resulted in a healthy development of new and innovative programs, many directed to assist those citizens who have a low fixed income.

Specifically, Yolo County has distributed its allocation of $1,621,241 in the following manner:

Mexican-American Concilio	$10,000
Public Safety Programs	24,000
East Yolo Water Study	10,000
Health Department	36,285
Diogenes House, Davis	10,000
Sihaya half-way house for mentally discharged	20,000
Salud Clinic	120,000
Yolo County Health Council	10,000
Yolo Alternatives	20,000
Day Care	85,500

(A partial listing of the programs covered).

There is no doubt, however, that the program has not lived up to full expectations and has strained limited Federal resources. Many worthwhile programs do not receive enough money or any money to function well enough to benefit the community. The program's credibility must also be weighed against the fact that revenue sharing is, in reality, deficit sharing. Since the first outlay of funds for this program, in fiscal year 1973, it has amounted to an annual percentage of the annual deficit increase as follows:

[Dollar amounts in billions]

	Deficit annual increase	Federal revenue sharing	Percent of deficit
Fiscal year—			
1973	$35.7	$6.6	18.5
1974	31.6	6.1	19.3
1975 (estimate)	26.3	6 2	23.6

The following remarks, by Mr. Harvey, city administrator of Yuba City, and those of Mr. Meline, city manager of the city of Dixon, are examples of two communities' experience with revenue sharing:

CITY OF YUBA CITY, CALIF.,
June 25, 1974.

Hon. ROBERT L. LEGGETT,
Washington, D.C.

DEAR CONGRESSMAN LEGGETT: Recent news articles and items appearing in other publications indicate that Congress is taking a look at general revenue sharing to evaluate its effect and impact on local government throughout the United States. Thus, it appears that this would be an opportune time to communicate to you the experiences and impact of general revenue sharing on the City of Yuba City. Yuba City has a population of 15,500 and has been receiving approximately $190,000 annually in general revenue sharing funds.

One aspect of general revenue sharing which I feel is important in our case, and may also exist in other cities, is the fiscal flexibility revenue sharing money has provided. Revenue sharing funds have been incorporated into our annual budget along with various other funds. Although the revenue sharing moneys may be used for a specific project or program, it should be made clear to Congress that the moneys received have provided flexibility to cities in allowing us to use other revenue sources for projects benefiting the people of our community which would not show as a general revenue sharing expenditure. A specific example of this is our new program for street improvements. Yuba City has a number of streets which have not been completely improved with complete curb, gutter, sidewalk, storm drain and street improvements. By using revenue sharing money for other capital improvement type projects, we have been able to free both gas tax moneys and General Fund money in order to adopt a policy of establishing a maximum assessment for these street improvements. The city then pays the difference between the maximum assessment and the actual cost of the improvement. This program has been well received by property owners. This summer, approximately 2½ miles of city streets will be improved by improvement districts under this policy. The streets which are being improved are in older sections of the city and will be benefiting numerous lower income and fixed income property owners. The important point I wish to make is that revenue sharing funds per se are not being expended for this program, but that the receipt of revenue sharing moneys have enabled us to defer other revenues to this type of a program. It should also be noted that this program only applies to the improvement of streets in existing developments throughout the city and does not apply to new subdivisions or new land developments.

Revenue sharing funds have not been used to reduce taxes but rather have enabled us to maintain our existing property tax rate without increasing the tax rate and has provided needed funds for many capital improvement type projects which we will detail later in this letter.

We have experienced considerable citizen input in our city's capital improvement programs; however, this input has not been on how revenue sharing funds specifically should be spent, but rather directed at projects and programs which people would like to see the city undertake. There has been input from citizens on such matters as park acquisition and development, street improvements, improved storm drainage, etc. The citizen input in these areas has been that they want or desire to have these things accomplished and leave the funding arrangements up to the city. Thus, the city Council has been able to exercise some flexibility between the use of general revenue sharing funds and other city revenues in order to accomplish the desired programs and projects of our citizens.

We have concentrated the specific use of revenue sharing funds on major capital acquisition items and capital improvement projects. Specific examples are as follows: The city purchased a new vacuum type street sweeper which also has a suction pump capability for cleaning out storm drainage catch basins and storm drain and sanitary sewer manholes. This piece of equipment has resulted in improved cleanliness of the city and when used in conjunction with a hydraulic flushing unit for cleaning sanitary sewers and storm drains, also purchased with revenue sharing funds, has improved the storm drainage and sanitary sewer maintenance program substantially. The use of this equipment has specifically been very beneficial in older portions of town where storm drain lines and sewer lines have become blocked and clogged resulting in problems of storm drainage backing up. Revenue sharing funds have also been used to purchase a new Fire Department pumper which will replace a very old, inadequate piece of equipment. The last two years, new police patrol vehicles have been purchased through general revenue sharing funds. General revenue sharing funds have been budgeted for the acquisition and development of a new fire substation site. The site has been acquired and plans for the sub-station building itself will be initiated in the near future. Revenue sharing funds have been budgeted for the development of a park at a city school site. The city and the school district have recently formalized a joint powers agreement whereby the city will be developing playground property on a school site with revenue sharing monies. The area will be used by the city as a park and playground on weekends during the summer and after school hours. This approach benefits both the city and the school district in that it provides for the development of existing publicly-owned property and results in the development of a neighborhood park on an existing site rather than the acquisition of a new site.

Revenue sharing funds have been budgeted for a major storm drain line in an older section of the community which will alleviate accumulations of rain water during the winter because of an existing system which is inadequate. The remaining revenue sharing funds have been budgeted to provide water and sanitary sewer lines to a major industrial development site for which we have been able to attract an industrial occupant who is now building a major food processing facility. Our area is a major agricultural community and the agricultural processing industry will relate to the community's economy very well. This particular industry is a food processing facility which operates on a year 'round basis rather than a seasonal basis. Thus, it will provide a stable employment facility for a substantial number of our citizens which will undoubtedly be of benefit to an area which experiences a high unemployment rate throughout the year.

The city staff recently revised and updated a Five Year Capital Improvement Needs Inventory which, after considerable study by citizens groups and the public generally, was submitted to the City Council for review and priority determination. This Capital Improvement Needs Inventory has been used as a basis for funding Capital Improvement projects in each year's budget. Thus, the use of general revenue sharing funds, as well as other city revenues, has been based on the overall needs of the community.

The administrative flexibility for the use of general revenue sharing moneys have been of tremendous benefit to a city of our size. The revenue sharing moneys can be anticipated as revenue and thus be incorporated into our budget and proper coordination and programming of projects can take place. This is a much greater benefit in our scheduling

and programming than various categorical grant type programs which are sometimes uncertain in their timing and do not provide us with the ability to develop our own timing and programming of a coordinated project. An example of this would be the use of revenue sharing moneys to build a storm drain line and the use of other city funds to improve the street in which the storm drain line is being located. Because of the flow of revenue sharing moneys, we can anticipate the revenue from revenue sharing and other funds to be able to coordinate both the storm drain lines and the street improvement together, development of the plans and specifications, put the project out to bid and successfully complete it. If the storm drain line was being built through a categorical grant program, applications would have to be submitted, the timing would be uncertain, approval of the project would not necessarily coincide with our ability to get the project out to bid and coordinate it with the street improvement portion of the project.

I feel very strongly that the general revenue sharing approach has been extremely beneficial to the City of Yuba City. I do not feel the City Council has authorized frivolous expenditures, but rather they have incorporated revenue sharing moneys into an overall program of public financing which has stimulated innovation throughout the city, has provided benefits for the elderly and fixed income people of our community and has assisted with the economic vitality of our community. If general revenue sharing was to be discontinued, it would be a drastic blow to our ability to provide many of the capital expenditures the citizens of our community have expressed the need and desire for.

If you desire any elaboration on the information contained in this letter, please do not hesitate to contact us.

Very truly yours,

PETER C. HARVEY,
City Administrator.

CITY OF DIXON,
Dixon, Calif., July 8, 1974.

Congressman ROBERT L. LEGGETT,
Vallejo, Calif.

DEAR CONGRESSMAN, LEGGETT: On June 20, 1974, officials of the City of Dixon participated in a technical assistance workshop on solid waste management. This one-day workshop in San Francisco was implemented by the Environmental Protection Agency and sponsored by the National League of Cities and U.S. Conference of Mayors.

We believe the workshop gave excellent assistance to this city in improving solid waste collection techniques. It will help us provide better and more efficient service to local citizens.

We urge your support to programs that will provide technical assistance to cities. As you know, general revenue sharing has been a Godsend to our financially poor communities. By the same token using the great resources of the federal government to provide technical assistance will meet needs that cannot be otherwise met.

Thank you for your past support.

JACK MELINE,
City Manager.

It would appear that quality management of program funds, at least in the examples cited in these remarks, can accomplish some of the social oriented goals we desire to see fulfilled and can directly benefit local communities. It is regretful, however, that program funds have not been properly administered nationwide and that the program exists without a real financial base.

SECOND ANNUAL GLASSBORO, N.J., CONCERT

HON. JOHN E. HUNT

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 18, 1974

Mr. HUNT. Mr. Speaker, on July 16, 1974 it was my distinct privilege to be a guest of the West Deptford High School Band parents at the second annual concert given by the School Band of America along with its famous chorus. The concert was held in the beautiful Wilson Hall of Music, Glassboro State College, Glassboro, N.J. It was billed as the Grand Finale Concert of the School Band and Chorus of America. It was a troupe of 73 young people, mostly high school age, from all parts of the United States. Each year this band is assembled, then tours Europe on a good-will tour. The band plays in many foreign capitals and, to say the least, is most unique in its make-up.

One of the interesting things about this group is that each member of the band and chorus must pay his or her own way. This year the price was $1,250 each. In this day and age it is most unusual to hear of young people working to earn this much money and then investing it in a music tour that brings great credit not only to the youth of this country but to the cultural advancement of the entire United States. I wish everyone could hear the inspiring music of this group.

To give you a quick rundown on where these youths come from, to name but a few, we can start with Woodbury, N.J., McKeesport, Pa., Alliance, Ohio, Lexington and Chicago Heights, Ill., Burbank, Calif., Iroquois, S. Dak., Phoenix, Ariz. and Massillon, Ohio. This group represents not only the best in music in this Country but also the best in national spirit.

The conductors of the band are Ed Harn, Terry Franz and Charles Stark. The overall local direction comes through Joe Lawrence of Woodbury, N.J. who booked the group at Glassboro State College. The principal director is Ed Harn and he has two extremely able assistants.

Should you ever have the opportunity to hear this band, I highly commend it to you.

Charles Williams, chairman of the fine arts department of the West Deptford High School, a most able band leader in his own right, must also share in the credit for bringing the band to the State of New Jersey. Incidentally, the group got off the plane in New York near the noon hour and were ready to perform by 8 p.m. the same day. We all salute this outstanding group of youths for their talent and dedication.

CAPTIVE NATIONS WEEK

HON. ROBERT McCLORY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 17, 1974

Mr. McCLORY. Mr. Speaker, I rise today to join in this 15th anniversary of Captive Nations Week; and I would like to commend my friends, the gentlemen from Pennsylvania (Mr. FLOOD), and the gentleman from Illinois (Mr. DERWINSKI) for scheduling this special commemoration this evening and for their excellent leadership on this important issue which they have exhibited over the years.

Mr. Speaker, the 15th anniversary of Captive Nations Week comes at a particularly crucial time in the history of East-West relations. The President of the United States has just recently returned from yet another summit meeting with the Soviet leadership in Moscow. This was the third United States-Soviet summit meeting that has been held since President Nixon took office, and there have been reports that Soviet Party Leader Brezhnev will be coming to our country for further negotiations with the President within the year. I am sure that when the 86th Congress, in its wisdom, enacted legislation establishing Captive Nations Week, few people foresaw a day when United States-Soviet relations would have developed to the point they have today.

In this light, Mr. Speaker, I think it is particularly important that we in the Congress speak out loud and clear in reaffirming our dedication to the eventual independence of the over two-dozen nations which still suffer under the Soviet yoke.

I applaud the policy of détente for the way that it has calmed belligerent national tempers and switched international controversy from the battlefield to the negotiating table. A stable policy of détente will allow the nuclear arms race to be brought under control, and let all nations make strides toward economic prosperity that are only possible during a real peacetime.

Mr. Speaker, I believe that the Presi-ander Solzhenitsyn would have un-ment at the hands of the KGB in the doubted received much rougher treatment at the hands of the KGB in the years before the policy of détente was introduced. Nevertheless, it seems to me that the personal history of this brilliant writer is an extremely tragic one under the Soviet regime; and it reminds us that, in a Communist system of government, there are not only captive nations, but captive individuals who suffer as well. In other words, while it can be conceded that détente is a beneficial policy as far as international relations are concerned, it should also be recognized that détente has not significantly improved conditions for citizens of the captive nations with respect to their free exercise of individual rights and liberties. Indeed, détente has, on occasion,

been responsible for increased repression of minority groups in the Soviet Union; as shown by the KGB's round-up and detention of Soviet Jews during the President's recent Moscow summit trip.

Mr. Speaker, we ought to be reminded that, even as the Iron Curtain develops a few chinks in its structure and allows us a closer look at life in the captive nations, there is still a great deal of human suffering in these countries. Recent news reports have told us that there is extreme concern in the Kremlin because the population of the captive nations is actually declining. The statist economy is completely stagnant; there are few prospects of economic, political, or spiritual revitalization. The evidence is clear, concerning the birth rate data, that the people living behind the Iron Curtain are threatened by a Kremlin-imposed genocide of the spirit as well as of the flesh.

Mr. Speaker, many of the most outstanding citizens of the 13th District of Illinois, which I have the honor to represent, have their roots in the captive nations behind the Iron Curtain. Many Americans of Albanian, Bulgarian, Czechoslovakian, Estonian, Hungarian, Latvian, Lithuanian, Polish, and Rumanian descents are living and working in the 13th District, and making a tremendous contribution to the quality of life in our part of northern Illinois.

Mr. Speaker, these people are excellent, civic-minded and charitable American citizens; but their dedication to the eventual liberation of their fatherlands has remained as strong as ever. They love the United States very much for its traditions of freedom and democracy, but they shall not rest in their defense of the inalienable rights of the captive nations to freedom and independence and their resolve to see these countries return as equal members of the community of free peoples.

Mr. Speaker, let us make this 15th anniversary of Captive Nations Week an occasion for those of us in the Congress to remind the world that Americans continue to care about the plight of the captive nations, that they have not been forgotten, and that their hopes and aspirations are shared by millions who have the privilege of living in freedom.

AMENDMENT TO H.R. 11500

HON. BOB ECKHARDT

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 18, 1974

Mr. ECKHARDT. Mr. Speaker, I plan to offer an amendment to H.R. 11500 to broaden citizen participation in the process of designating areas unsuitable for surface mining. The text of the amendment follows:

On page 166, after line 5, add the following sentence: After a person having an interest which is or may be adversely affected has filed a petition and before the hearing, as required by this subsection, any person may intervene by filing allegations of facts with supporting evidence which would tend to establish the allegations.

The above amendment will be offered in lieu of my amendment which was printed in the July 16, 1974, CONGRESSIONAL RECORD and which stated:

Page 165, line 21, after the word "person" strike all through the word "affected" on line 22.

A MESSAGE TO THE NEW OFFICIALS OF KENNER AND HARAHAN

HON. DAVID C. TREEN

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 18, 1974

Mr. TREEN. Mr. Speaker, I would like today to call to the attention of my colleagues an editorial that appeared in a newspaper in my district, the East Bank Guide, on the eve of the inauguration of the new officials in Kenner and Harahan, La. I found the thoughts expressed in the editorial applicable to the entire spectrum of public and political life and for that reason I commend it to my colleagues.

The editorial follows:

[From the East Bank Guide, June 12, 1974]

A MESSAGE TO THE NEW OFFICIALS OF KENNER AND HARAHAN

That grueling, tedious task of electing those who are to govern the East Bank's cities has been completed. Left now is the grueling, tedious task assigned to these elected—and that is to govern.

On this, the eve of the inauguration of new administrations in Kenner and Harahan, the Guide would like to offer a little worldly wisdom to those charged with the responsibility of public power.

ARROGANCE OF STRENGTH

Public office is a lonely place. While others go about the business of living their lives, the public official is left alone with the responsibility of making those lives livable.

Of the many decisions charged to public officials, very few arouse much public interest; yet, nearly all directly affect the apathetic citizenry.

And when those rare inflammatory issues do push their way into public discussion, the office holder is beseiged and indeed pressured towards one solution while his experience and principles may tell him that there is a better idea.

Then there are the times when those in power realize the political system's vulnerabilities. They learn that friction arises only when facts are made public, so by closeting their actions the flame of public outrage is choked before it can spread.

They learn that in solving a problem it is easier to find an answer that compromises opposing sentiments than it is to find a true solution.

So after the aura of public responsibility wears away, a fatigue of public burden sets in, and the result is a type of political arrogance.

It's an arrogance that leaves office holders with a feeling that their careers are more important than the public good. Consequently it is an arrogance that provides the first nourishment for the development of corruption.

Only the true statesman can overcome the challenge. It is his task to feel the loneliness, see the weaknesses and taste the power and yet still be conscious of the integrity that his office needs.

VULNERABILITY OF POWER

There is a tendency among those elected to office to misinterpret their elections. What is seen as a public outpouring of support is quite often only an interplay of situations.

Lincoln once explained that "only circumstances make a President." No less can be said about mayors, marshals, councilmen and aldermen. And one doesn't have to look past the present to witness the fickleness of support for a President elected by the largest landslide ever to see what can happen after fate has made its choice.

There is no person who has an irreversible hold on his office. Even monarchs who claimed they were placed on the throne by God were eventually hauled off the throne by the people.

It is the prudent statesman who realizes that his electoral support was merely a reading of opinions of some of the voters who on one particular day had to decide from a given set of opponents. On different days with different issues decided by different voters choosing from different opponents the results may have been different.

It is the Guide's hope that during their four-year terms, the new officials of Kenner and Harahan will derive humility from strength and stability from power.

THE 15TH ANNIVERSARY OF CAPTIVE NATIONS WEEK

HON. PAUL W. CRONIN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 17, 1974

Mr. CRONIN. Mr. Speaker, as the 15th anniversary of Captive Nations Week comes to an end and the 200th anniversary of our United States approaches, I am reminded of the Declaration of Independence which proclaims that all people are created equal and endowed by the Creater with certain inalienable rights of life, liberty, and the pursuit of happiness. During this Captive Nations Week, we remember the courageous peoples who had devoted their lives and have often lost their lives to the cause of personal freedom in nations throughout the world.

Today we join as unbonded people, exercising our constitutional rights of freedom of speech and freedom of assembly to help lead these people in nations behind the Bamboo and Iron Curtains from their captivity. Their hope for freedom lies in our hands.

We, as Americans, must bring to public attention the merit of the captive nations issue, and we must insure that the world understands that freedom for all nations is our goal. We must renew our pledge to these peoples, and we must gather together our resources of communication to design a campaign to keep alive the hope of freedom for captive nations in the youth of these countries.

The "shot heard around the world" was fired in the town of Concord, Mass., in my own congressional district, and it still rings throughout the world as a reminder that the struggles and shackles

can be overcome. Let us all resolve to stand behind these peoples until they are liberated and given their rightful place among the free nations of the world. Let us pledge to make this coming year the year to rededicate the ideals of liberty and justice for all.

IRS CHIEF BALKED AT PRESSURE

HON. ROBERT O. TIERNAN

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 18, 1974

Mr. TIERNAN. Mr. Speaker, I am heretofore, submitting for the RECORD, a number of articles detailing White House pressure on the Internal Revenue Service. This pressure was designed to bring the powerful administrative measures against those the White House considered "enemies" or "uncooperative." It is my contention that this evidence belies the need for an independent IRS contained in my proposed legislation, H.R. 14793:

IMPEACHMENT PANEL EVIDENCE—IRS CHIEFS BALKED AT PRESSURE

(By Walter Taylor)

Attempts by the White House to make political use of the Internal Revenue Service prompted threats by two IRS commissioners to resign their posts in protest, according to evidence made public today by the House Judiciary Committee.

The evidence shows that various White House officials, in apparent violation of federal statute, attempted to use the agency to harass supposed "enemies" of the administration and to help some of its presumed "friends."

In September 1972, for example, then White House counsel John W. Dean III requested IRS "examinations or investigations" of some 575 supporters of Democratic presidential nominee George S. McGovern, according to an affidavit from former Commissioner Johnnie M. Walters included in evidence the committee has collected as part of its impeachment investigation.

Walters said he resisted the instructions, advising Dean that compliance with the request "would be disastrous for the IRS and for the administration and would make the Watergate affair look like a Sunday school picnic.

The evidence released today—28 detailed statements of factual information supported by sworn statements, testimony before various investigative panels, White House memoranda and assorted other documents—deals with one of the most serious charges against the President: That he misused government agencies for his own political gain.

There is little new in the material released today to link Nixon directly with such activity. But transcripts of two White House tape recordings already on the public record suggest that the President had some knowledge of efforts to make political use of the agency.

During a Sept. 15, 1972, White House meeting between the President and his former chief of staff, H. R. Haldeman, this exchange took place, according to the transcript:

"H. John (Dean), he is one of the quiet guys that gets a lot done. That was a good move, too, bringing Dean in. But it's—

"P. It. He'll never, he'll never gain any ground for us. He's just not that kind of guy. But, he's the kind that enables other people to gain ground while he's making sure that you don't fall through the holes. Oh. You mean.

"H. Between times, he's doing, he's moving ruthlessly on the investigation of McGovern people, Kennedy stuff, and all that too. I just don't know how much progress he's making, cause I—

"P. The problem is that's kind of hard to find.

"H. Chuck, Chuck has gone through, you know, has worked on the list, and Dean's working the, the thing through IRS and, uh, in some cases, I think, some either (unintelligible) things. He's—He turned out to be tougher than I thought he would, which is what.

"P. Yeah."

Walters, whose affidavit states that the investigation of McGovern supporters never was carried out, is one of the two former IRS commissioners who told impeachment investigators that they had threatened to quit rather than to carry out White House directives.

The other is Randolph Thrower, who headed the agency in the early days of the Nixon administration. In a sworn statement to the committee, Thrower charged that the White House in 1970 attempted to install a "personal police force" within the IRS hierachy.

Walters said he advised Treasury Secretary George P. Shultz "that he could have my job any time he wanted it" in late 1972 after repeated efforts by White House aide John D. Ehrlichman to reopen an IRS investigation of former Democratic National Chairman Lawrence F. O'Brien.

Walters said that during the summer of 1972, Shultz "informed me that someone in the White House (subsequently identified as John Ehrlichman) had information that Mr. O'Brien had received large amounts of income which might not have been reported properly. The secretary asked whether IRS could check on the matter, and I advised that IRS could."

He said he checked with aides at the agency and found that O'Brien's returns for the two previous years recently had been examined, that O'Brien had paid a small deficiency for one year and that the investigations were closed.

He said he reported those facts to Shultz, only to be told that Ehrlichman "was not satisfied with the report on the status of Mr. O'Brien's returns."

Ehrlichman still was not satisfied several weeks later, even after the investigation was reopened and O'Brien had been interviewed by IRS investigators.

"On or about Aug. 29, 1972, at the request of Secretary Shultz, I went to his office with Roger Barth (another IRS official) so that we could conclude review of the O'Brien matter and dispose of it," he said. "Secretary Shultz, Mr. Barth and I discussed the matter and agreed that IRS could do no more."

However, when the three men telephoned Ehrlichman to notify him of their findings, he got Walters on the line and snapped, "I'm goddamn tired of your foot dragging tactics," according to the sworn statement.

It was at that point, Walters said, that he threatened to resign. He did not resign, however, until eight months later.

Included in the Judiciary Committee evidence is information that the O'Brien audit—which also is under investigation by Watergate Special Prosecutor Leon Jaworski—was discussed at a Sept. 15, 1972, meeting between the President and Dean.

The portion of a White House tape pertaining to that conversation was subpoenaed by the committee, but the President has refused to surrender it.

The tape has been obtained by Jaworski's Special Prosecution Force, however.

In his statement to impeachment investigators, Thrower said the White House pressured him in the summer of 1970 to place John Caulfield and G. Gordon Liddy in key positions in the agency, despite notice that neither man was qualified for the jobs.

He said the pressure ended only after he threatened to resign.

Caulfield and Liddy later became agents for the President's re-election campaign.

In his affidavit, Thrower said he did decide to quit his post in January 1971. He said he attempted unsuccessfully through Treasury Secretary David Kennedy and Atty. Gen. John N. Mitchell to arrange a meeting with the President to express a concern "that any suggestion of the introduction of political influence into the IRS would be very damaging to him and his administration, as well as to the revenue system and general public interest."

"Sometime later," Thrower said, "the President's appointment secretary, Dwight Chapin, told me that the President had received my views from the attorney general and did not feel that a conference was necessary. Thereupon, I submitted my resignation which I had been withholding until I had the opportunity to confer with the President."

In the 440 pages of evidence made public today, the impeachment committee noted a number of other attempts by the White House—some apparently successful—to use the IRS for political advantage. Among the cases cited were these:

In April 1970, a confidential report on an IRS investigation of Alabama Gov. George Wallace was leaked to columnist Jack Anderson. A story based on the report and potentially harmful to Wallace's reelection hopes appeared on April 13, the day before the Alabama primary elections.

Former White House aide Clark Mollenhoff, who obtained the report at the request of Haldeman, said in an affidavit to the Judiciary Committee that the leak "occurred at the highest White House level."

In September 1971, John Caulfield, then a White House aide, obtained and distributed detailed information, some derived from confidential tax returns, about a wealthy Jewish businessman who was under consideration for a post with Nixon's re-election compaign organization.

In a memo to John Dean, Caulfield noted that the businessman, Lawrence Goldberg, had had "heavy involvement in Jewish organizational activity." With the memo, Caulfield included a list of charitable contributions to Jewish organizations Goldberg had claimed on his income tax return.

In early 1972, a White House memo, unsigned and unaddressed, provided personal information—including some apparently culled from IRS files—about Washington Star-News investigative reporter James R. Polk.

The memo was prepared shortly after the White House learned of a story by Polk that identified Herbert Kalmbach, Nixon's lawyer, as a fundraiser for the President.

The evidence also included much-publicized information about efforts to use the IRS against persons placed on the White House's so-called "enemies list," which included political opponents of the President, labor leaders, reporters and liberal academicians, among others.

WHITE HOUSE PRESSURE ON IRS DETAILED

(By Bob Kuttner)

White House pressures to politicize the Internal Revenue Service were so intense that

President Nixon's first two IRS commissioners both threatened to resign in protest, according to the House Judiciary Committee's compilation of evidence on improper use of the IRS.

Commissioner Randolph W. Thrower eventually did resign in January, 1971, according to his sworn statement, after he tried unsuccessfully to arrange a meeting to discuss the pressures with President Nixon.

That followed repeated attempts by unnamed White House aides working through then Treasury Under Secretary Charls Walker to force Thrower to place either White House investigator Jack Caulfield or G. Gordon Liddy Jr., subsequently convicted in the Watergate break-in, in a sensitive IRS post in the Bureau of Alcohol, Tobacco and Firearms (ATF).

Thrower was also pressured to convert ATF into a "personal police force" to be headed by Liddy or Caulfield. He blocked the plan only by threatening to resign.

Thrower's successor, Johnnie Walters, said in an affidavit that he came under intense pressure from John D. Ehrlichman in the summer of 1972 to create tax problems for Lawrence F. O'Brien, then Democratic national chairman.

Ehrlichman had learned from the IRS "list of sensitive cases" that O'Brien might be under investigation by IRS in connection with fees he received from Howard Hughes. But Walters' own investigation, made at Ehrlichman's request, showed O'Brien had paid all the taxes he owed.

Despite this finding, Ehrlichman continued pressing Walters to go after O'Brien. Walters said he carried out Ehrlichman's demand to have IRS interview O'Brien prior to the 1972 election. However, the pressure from Ehrlichman, relayed through then Treasury Secretary George P. Shultz, continued.

Finally, on Aug. 29, according to Walters, he told Ehrlichman in a stormy telephone conversation with Shultz on an extension that IRS considered the case closed.

"I'm goddamn tired of your foot-dragging tactics," Ehrlichman shot back. Following the conversation, Walters said in an affidavit, "I told Secretary Shultz that he could have my job any time he wanted it."

Ehrlichman much later explained to the Senate Watergate committee why he was so interested in O'Brien:

"I wanted them to turn up something and send him to jail before the election."

Two weeks after his angry conversation with Ehrlichman, Walters said, he was requested by John W. Dean III to have IRS investigate a list of McGovern campaign aides and donors. On Sept. 13, Walters reported, he decided to do nothing after conferring with Secretary Shultz.

Later that week on Sept. 15, according to the Judiciary Committee document, President Nixon met with aides H. R. Haldeman and Dean to discuss "taking steps to overcome the unwillingness of the IRS to follow up on complaints." According to Dean's diary, Dean specifically reported to the President on O'Brien.

Potentially, a tape of that conversation could resolve the degree of presidential responsibility for the attempts to misuse IRS. However, this is one of the tapes Mr. Nixon has refused to give the committee.

On June 12, U.S. District Court Judge John J. Sirica ordered that the tape be given to Watergate Special Prosecutor Leon Jaworski for his investigation, but the order has been appealed by the White House.

The committee document, which pulls together all the available evidence, some of it previously unpublished, also discloses that:

Haldeman used the President's name in asking Clark Mollenhoff, then a White House special counsel, to get an IRS report on tax problems of Alabama Gov. George C. Wallace's brother, Gerald. The report was leaked almost immediately to columnist Jack Anderson. Mollenhoff's affidavit claims the leak came from "the highest White House level." Disclosure of confidential tax information is a criminal act.

Caulfield's "back channel" for obtaining confidential tax information repeatedly turns out to be former IRS Assistant Commissioner Vernon (Mike) Acree, now U.S. Commissioner of Customs. Previously undisclosed Senate Watergate committee staff interviews quote Caulfield as citing Acree as his source of information on Billy Graham, John Wayne, other entertainers and Gov. Wallace's brother.

Caulfield also told investigators it was Acree who supplied the tax returns of Lawrence V. Goldberg, who was being considered for a job as the Nixon reelection committee's coordinator of Jewish voters.

Acree told The Washington Post yesterday that he first began supplying tax information to Caulfield on prospective presidential appointees while Caulfield was working at the White House in 1971. Having made the contact with Acree, Caulfield continued to exploit it, according to Acree, who denies doing anything improper. "If he didn't have a bona fide purpose, that's his problem," Acree said. "I'll be goddamned if I was a patsy for Jack Caulfield, or anyone else."

Previously undisclosed testimony by Dean in a closed session of the Senate Watergate committee indicated President Nixon had ordered pressure on IRS to stop tax investigation of presidential "friends."

"The President," Dean said, "had asked it be turned off friends of his." Then, Dean said, he got the tax information on Graham from Caulfield, which he forwarded to Haldeman asking what to do next. Haldeman scrawled back. "No, it's already covered."

The beleaguered IRS commissioners relied on the Treasury Department as a buffer to shield them from the political demands of the White House—with mixed success. Walters' decision to resist Dean's request to audit "enemies" was made in conjunction with Treasury Secretary Shultz, who also figured in Walters' efforts to resist harassing O'Brien.

"George [Shultz] wouldn't let me at him," Ehrlichman told Senate investigators. The Aug. 29 conversation with Walters about the O'Brien audit was "the first time I had a chance to tell the commissioner what a crappy job he had done," Ehrlichman added.

But the use of Treasury as a buffer cut other ways. It never prevented the White House from obtaining information on presidential friends. But when Commissioner Thrower asked then-Treasury Secretary David Kennedy to arrange a personal meeting with President Nixon, Kennedy was unable to comply.

The committee document also includes tax information on other entertainers which Caulfield obtained from IRS to compare with tax records of John Wayne and Billy Graham.

The audit summaries show that Jerry Lewis was found to owe additional taxes for twelve years in a row, totaling more than $450,000. Actors Sammy Davis Jr., Peter Lawford, Richard Boone, Lucille Ball, and others were all au iited repeatedly.

[16.1 SSC Exhibit No. 44, 4 SSC 1682–85—1682]

EXHIBITS SUBMITTED FOR THE RECORD—EXHIBIT NO. 44

(A) *To accomplish:* Make IRS politically responsive. Democrat Administrations have discreetly used IRS most effectively. We have been unable.

(B) *The Problem:* Lack of guts and effort. The Republican appointees appear afraid and unwilling to do anything with IRS that could be politically helpful. For example:

We have been unable to crack down on the multitude of tax exempt foundations that feed left wing political causes.

We have been unable to obtain information in the possession of IRS regarding our political enemies.

We have been unable to stimulate audits of persons who should be audited.

We have been unsuccessful in placing RN supporters in the IRS bureaucracy.

(C) *HRH should tell the Sec.*

Walters *must* be more responsive, in two key areas: personnel and political actions.

First, Walters should make personnel changes to make IRS responsive to the President. Walters should work with Fred Malek immediately to acomplish this goal. (NOTE: There will be an opening for a General Counsel of IRS in the near future—this should be a first test of Walter's cooperation).

Second, Walters should be told that discreet political action and investigations are a firm requirement and responsibility on his part. John Dean should have direct access to Walters, without Treasury clearance, for purposes of the White House. Walters should understand that when a request comes to him, it is his responsibility to accomplish it—without the White House having to tell him how to do it!

NATIONAL HEALTH SCHOLARSHIP FUND

HON. PAUL G. ROGERS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 18, 1974

Mr. ROGERS. Mr. Speaker, today I am introducing for myself and all other members of the Subcommittee on Public Health and Environment, Mr. SATTERFIELD, Mr. KYROS, Mr. PREYER, Mr. SYMINGTON, Mr. ROY, Mr. NELSEN, Mr. CARTER, Mr. HASTINGS, Mr. HEINZ, and Mr. HUDNUT, a bill which would: First, authorize appropriations of $22.5 million for National Health Service Corps scholarships for fiscal year 1975, and second, authorize appropriations for fiscal year 1975 at existing authorization levels under provisions of the Health Manpower Act and Nurse Training Act which provide grants to health professions schools to enable them to make loans to students entering such schools this fall. It is my understanding that comparable legislation with respect to student loans will be introduced in the other body today by Senator JAVITS and others, but that the Javits bill does not include authority for new National Health Service Corps scholarships.

Mr. Speaker, this is emergency legislation. The funding provisions of the Health Manpower Act and Nurse Training Act expired on June 30, 1974. Although the Subcommittee on Public Health and Environment has completed hearings and is in the process of marking up new health manpower and nurse training bills, House consideration of these bills will be delayed for at least another month. The subcommittee presently is marking up complex health planning legislation. Next on our agenda is final markup of bills which would affect significant revisions in existing health

manpower and nurse training authorities. The Senate Health Subcommittee has completed hearings on comparable legislation, but has not yet reported its bills.

Mr. Speaker, I am hopeful that this bill will receive the early attention of the Members of this body and be enacted at the earliest possible date so that funds may be appropriated in the fiscal year 1975 Labor-HEW appropriations bill presently pending Senate consideration. Students entering schools this fall need to make their financial plans now. They should not be forced to wait on enactment of the entire health manpower package in order to become eligible to receive loans or scholarships.

H.R. 15544

HON. STANFORD E. PARRIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 18, 1974

Mr. PARRIS. Mr. Speaker, I wish to bring to your attention a matter of very serious concern to the employees of the General Services Administration.

As you know, on June 25, 1974, the House approved H.R. 15544, the fiscal 1975 Treasury, Postal Service, and General Government appropriations bill. Unfortunately I was unavoidably absent on that day, and did not have the opportunity to vote on the bill.

It has been brought to my attention that the significant reduction contained in H.R. 15544 for the GSA Public Buildings Fund—more than $100 million—will have a critical impact. Certainly the reduction will detrimentally affect the maintenance and protection of our public buildings and monuments. What is more important, however, is that this reduction will force GSA to lay off as many as 8,500 employees, most of whom are "blue-collar" workers from the lower economic strata of our society, and whose jobs entail cleaning, maintenance, and building services.

Mr. Speaker, I have always maintained that excessive Government spending is the root cause of our inflationary evils. However, I believe that all Government agencies will have to bear their fair share of cost savings, not just the GSA. In addition, I believe this reduction in the Public Buildings Fund is false economy, as undoubtedly the layoffs of 8,500 persons will result in a significant addition to our welfare rolls.

Yesterday I joined with several of my colleagues from the Washington metropolitan area in directing correspondence to the distinguished Senator from New Mexico (Mr. MONTOYA) urging that his Subcommittee on Treasury, Postal Service and General Government restore this $100 million to the Public Buildings Fund. It is my understanding that the subcommittee will be marking up H.R. 15544 in the immediate future.

I am sure my colleagues agree that this is a very serious situation which must be rectified at the earliest possible date.

KILLING TWO BURDENS WITH ONE STROKE

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 18, 1974

Mr. BROWN of California. Mr. Speaker, as you know, newspaper writers seem to take great delight in pointing out the problems which face our society, and the inadequacies of governmental attempts to solve these problems; but rarely do these writers come up with their own concrete proposals to deal with society's difficulties. As someone once said, "It is easy to criticize"—I forget how the rest of the phrase goes, but believe me, it is an excellent quotation.

Anyway, Mr. Frank Getlein, in his regular Washington Star-News column, has shown himself to be an exception to the rule by not only giving us an incisive analysis of two of our Nation's critical problems, but also giving us the solution to those problems. And he has managed to accomplish this all in one concise column, which appeared a few days ago.

I am certain that our colleagues will benefit greatly by reading this masterpiece, and therefore I am inserting the item in today's RECORD at the conclusion of my remarks. I also would like to hereby give notice that I am seeking cosponsors for a bill to delete from the Federal budget all funds that have been appropriated for studies by the Rand Corp., the Brookings Institution, and similar organizations, and instead simply submit the questions involved to Mr. Getlein.

The article follows:

[From the Washington Star-News, July 12, 1974]

A MODEST PROPOSAL TO END WELFARE

(By Frank Getlein)

On leaving the country the other day, apparently in the hope of becoming the second most-traveled Cabinet member in the Nixon administration, Secretary of the Treasury William Simon paused to offer his support for the absolute inviolability of the military budget and to suggest that welfare was the place to look for possible waste and cutback areas.

It is a familiar administration position. The military may have the largest budget in history, but the military dollar has been stricken by inflation—unlike the dollars of the rest of us, presumably—and allowance must be made.

Meanwhile, the ravenous welfarites are sitting in idleness consuming the nation's substance. They toil not, neither do they spin, yet they expect to eat like everyone else. No wonder the country's going broke and inflation is wild in the streets.

It is only the temporary estrangement between the press and the leading anti-welfarists caused by Watergate that has prevented the publication of those classic, widely loved stories about fur-coated ladies arriving in their Cadillacs to pick up their welfare checks.

The country is being ruined by welfare on the one hand and, on the other, it is in mortal danger due to scrimping on the military.

It is amazing that a mind like Simon's hasn't put the two things together. They fit, after all, like a hand in a glove or a knife in a back. He will see that swiftly, no doubt, as soon as he returns from his travels. Meanwhile, we may modestly anticipate his proposals:

The solution of these two problems is to be found in the principle of "linkage," of bringing one problem to bear on another, as Henry Kissinger did so brilliantly in bringing peace to Southeast Asia and the Middle East and negotiating an end to the arms race with Moscow.

When we link the welfare burden to the military danger, instead of regarding the two as separate problems, we find that each one solves the other.

The problem with the welfare recipients is that they don't have jobs. And one ancient problem of the military is the lack of live targets.

It is obvious that when the Viet Cong finally land in San Diego due to our lack of several more missile systems than we already have, they are not going to stand there like targets on a rifle range waiting for our troops to fall into position, count off the proper numbers and squeeze off their rounds in the manner prescribed by Army field manuals.

No, more likely they will run and jump and dodge behind trees with the well-known unscrupulousness they revealed in Indochina.

That is the kind of fighting our troops need experience in, and welfare clients are the people who can give it to them.

Let the welfare rolls be recruited for the task. If necessary, welfarists can even be drafted. Armed with dummy rifles, they can wade ashore at, say, Coronado, and then run and jump and dodge behind trees. Meanwhile, our troops can blaze away at them and get a much more practical idea of ground combat than is now possible.

Nor is the heavy proportion of women and children on the welfare rolls any impediment to this linkage of problems. On the contrary, that may be an advantage, for, as we learned in Vietnam, Communist insurgents never hesitate to enlist women and children in the war against soldiers they mistakenly regard as foreign invaders.

By being able to shoot at actual women and children as part of their normal training, our troops will not only gain the technical experience of dealing with targets of different overall shape and movement from those of men, but will also have the invaluable advantage of rehearsing, as it were, their own emotions in such a situation of stress.

With training such as this, we may all sleep easily, confident that when the Viet Cong come, they will be repulsed and the San Clemente National Monument to American Home Improvement will be saved.

The former welfare recipients themselves, wherever they may be, will be happier for knowing they have contributed to their nation's security.

It seems possible that, with diligence in recruitment and intensity in training, a decade or two should see the end of the welfare problem altogether.

Then the entire budget can be devoted to the military, and I'm sure we shall all be as happy as kings.

HOUSE MEMBERS AS QUALIFIED PRESIDENTIAL CANDIDATES

HON. WILLIAM S. MOORHEAD

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 18, 1974

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, for some reason, this Nation has added to its list of impossible dreams, the chance that a Member of the House of Representatives could be a serious

candidate for the Presidency. The popular thinking seems to restrict this province to Governors and Members of the other Chamber.

Certainly, we know that some of the finest legal, administrative and legislative minds in the Nation, men and women who could lead a country, are Members of the House.

Therefore it was with delight that I came across, and put into the RECORD at this time, a recent column by James Eldridge, editorial page columnist for the Chillicothe, Gazette, Chillicothe, Ohio.

Eldridge's article discusses support for the possible Presidential candidacy of our colleague from Arizona, "Mo" UDALL.

Now I do not know what Mo's plans are in this regard, but I am pleased that the very thought of a House Member seeking the presidency is not rejected out of hand. I think it is in the very best interests of this institution and ourselves to bury the flawed thinking that the highest office in the land is the private preserve of Senators and Governors, with "Congressman Keep Out" signs posted everywhere.

KEEP AN EYE ON UDALL

(By James A. Eldridge)

In the more than 30 years that I have spent reporting or participating in American politics and public affairs I have never taken to my typewriter in a spate of political forecasting. That is, until today.

The occasion for this piece of pontifical journalism is that I sense the 1976 Democratic presidential sweepstakes are beginning to shape up. The first trial runs will be made in the next few months.

As a matter of fact, Sen. Henry Jackson of Washington has not stopped running for the '76 nomination since he lost the '72 nomination.

And there is Sen. Edward Kennedy of Massachusetts—undeclared but jockeying for a pole position.

In recent weeks a new horse has been seen on the track testing the presidential turf to see if he can attract any backers for the big race in 1976.

The jockey, Congressman Morris K. Udall, is wearing a cactus flower in honor of his home state, Arizona.

Udall's candidacy—as yet lacking a formal declaration—is being carefully tested on the hustings among professional politicians. He has made exploratory trips to Wisconsin, Missouri and Florida in recent weeks and he is beginning to catch the attention of the media.

The Washington Star-News, the New York Times, the Miami Herald, the St. Paul Pioneer Press and the Madison (Wis.) Capital Times have carried interviews with Udall on his presidential aspirations. A few days ago CBS News devoted considerable film to Udall's activities and he got some plus exposure on a recent NBC Today show.

Who is Congressman Udall and what are his qualifications to be considered as a serious contendor for the 1976 Democratic presidential nomination?

"Mo," as he is widely known, is from a pioneer Arizona family—with Mormon roots—and a history of public service. His father, Levi S. Udall, died in 1960, while serving as Chief Justice of the Arizona Supreme Court. His mother, Louise Lee Udall, who died this year, was active in civic affairs and had an intense interest in Indian life and culture and was the author of "Me and Mine," the life story of a Hopi woman. His brother, Stewart, served as Secretary of the Interior in the Kennedy and Johnson administrations.

The Congressman was born on June 15, 1922, in St. John's, a small northern Arizona town. He lost an eye in an accident at the age of six but his six-foot, five-inch frame, coupled with his athletic ability, enabled him to play basketball in college and later professionally—with the Denver Nuggets.

During World War II, he served four years in the Air Force in the Pacific Theatre and was discharged with the rank of captain. He then attended the University of Arizona where he received his law degree with distinction in 1949.

Until 1961, when he was elected to Congress to succeed his brother Stewart, he practiced law and served as Pima County (Tucson) attorney.

In the House, Udall is considered a liberal Democrat, but solid enough to be returned to his seat six times by a conservative district.

In legislative battles, he has served as a floor leader on medicare, the elementary and secondary education act, the housing act, and civil rights.

He broke with President Johnson on the Vietnam War in 1967 at a time when his brother, Stewart, was in the Johnson cabinet.

Udall challenged the entrenched House leadership in 1969 when he ran against John McCormick for Speaker of the House—a futile move—but one which helped catalyze reform elements in the House.

He considers the environment his principal bailiwick. In this posture he has been on top of environmental and energy legislation in the House. Presently he has pending before the House a strip mining control bill. He is not one to dodge the controversial.

Currently, he is the leading House sponsor of the national land use planning act and also a $3 billion energy research and development act.

Udall has also joined forces with one of the House's most respected conservatives, Republican Congressman John Anderson of Illinois, in sponsoring a campaign finance reform act.

"Mo's" skill as a legislator, combined with his reputation as a committee member who does his homework, has lead to an impressive list of legislative accomplishments. In conservation alone these include the Wilderness Act and those establishing the Redwoods National Park, North Cascades National Park, Indiana National Dunes Lakeshores, the Assateague and Gateway Seashores.

His amendment to the Alaska Native Claims Settlement Act saved more than 80 million acres of this frontier from private exploitation and preserved them for national parks and wilderness areas.

An "egghead," Udall has written two books. "The Job of the Congressman" and "Education of a Congressman," both published by Bobbs-Merrill.

Both books examine in depth the troubling issues of our time.

His present presidential campaign activities began quietly and almost by accident. Two House members, Congressmen Henry Reuss and David Obey, both of Wisconsin, launched the Udall Balloon this past spring. In part, their action was in behalf of the House of Representatives, which in recent years has failed to field a presidential candidate.

But their effort was quickly supported by more than 30 House Democrats, including Don Edwards of California, John Seiberling of Ohio, Robert Kastenmeier of Wisconsin and Claude Pepper of Florida. These four are among the most powerful and respected Democrats in the House.

Let it be noted the last man to go directly from the House to the White House was James A. Garfield of Ohio in 1880.

So far, Udall seems to be treating his exploration with a mixture of humor and thoughtfulness—two of his most attractive characteristics.

"I don't flatter myself that I am the only one around. I have considerable doubt whether this will fly or not, but I have decided, within the limits of my time and resources, to accept the invitations of groups around the country that want to take a look at me," he recently said.

I predict that Udall will formally enter the 1976 presidential foray and that he will be a formidable candidate—albeit a dark horse.

He will offer the Democrats an opportunity to break the present deadlock between the conservatives now grouping around Senator Jackson and the liberals who are awaiting word from Ted Kennedy.

As each day passes it is more obvious that both of these contendors are less and less acceptable to more and more organization Democrats for a myriad of reasons.

Udall brings to the hustings brains, integrity, leadership ability and the proven ability to win votes. One political pundit said of him, "He is Lincolnesque figure, the antithesis of Watergate . . . an untarnished alternative for a deeply disenchanted electorate." And he is a powerful orator and fighting debater.

Watch Udall as he moves toward the battle. The 1976 Democratic presidential is not yet within the grasp of any one candidate nor has any single faction within the Democratic Party the power to deliver the nomination. It is still an exciting horse race.

AMENDMENTS TO H.R. 11500 AS REPORTED

HON. JOSEPH M. McDADE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 18, 1974

Mr. McDADE. Mr. Speaker, under leave to extend my remarks in the RECORD, I include the following amendments proposed to be offered by me to the bill H.R. 11500:

AMENDMENTS TO H.R. 11500, AS REPORTED OFFERED BY MR. McDADE

Page 249, strike out lines 15 through 16 and insert in lieu thereof the following:

(3) appropriations made to the fund, or amounts credited to the fund, under subsection (d).

Page 249, beginning on line 19, strike out "and enforcement and collection of the fee as specified in subsection (d)".

Page 250, strike out line 5 and all that follows down through and including line 14 on page 251 and insert in lieu thereof the following:

(d)(1) In addition to the amounts deposited in the fund as specified in paragraphs (1) and (2) of subsection (b) there are authorized to be appropriated annually to the fund out of any money in the Treasury not otherwise appropriated, such amounts as are necessary to make the income of the fund not less than $200,000,000 for the fiscal year ending June 30, 1975, and for each fiscal year thereafter.

(2) To the extent that any such sums so appropriated are not sufficient to make the total annual income of the fund amount to $200,000,000 for each of such fiscal years, as provided in paragraph (1), and amount sufficient to cover the remainder thereof shall be credited to the fund from revenues due and payable to the United States for deposit in the Treasury as miscellaneous receipts

under the Outer Continental Shelf Lands Act. Moneys covered into the fund under this paragraph shall remain in the fund until appropriated by the Congress to carry out the purposes of this title.

SILENT CITY OF ROCKS

HON. ORVAL HANSEN

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 18, 1974

Mr. HANSEN of Idaho. Mr. Speaker, the bill I am introducing today marks a milestone in a long and arduous trail. Nearly 5 years ago I initiated the process by my request to the Secretary of the Interior that a feasibility study be made of the Silent City of Rocks to determine suitability of the area as a national monument. I also arranged for George Hartzog, then Director of the National Park Service, to make a personal tour of inspection of the area.

This is a section in the rolling Albion-Malta mountain ranges of Idaho, unique in its geological formation with great historical value which must be preserved. The huge rocks can be seen standing in every imaginable shape, and bear such colorful names as Twin Sisters, Bath Rock, the Saddle, Castle Rock, and many others. The area has been the site of historical activity since John Jacob Astor made an early day expedition down the Snake River in a cottonwood dugout canoe. Chief Pocatello and his Indian tribe were responsible for one of the worst massacres in the history of Idaho during an Indian attack nearby on a wagon-train in 1861.

Emigrants followed the soldiers and settled there under military protection. Cattlemen were first attracted to the grazing land, but were soon followed by sheepmen. One of the bitter cattle-sheep feuds culminated in the famous "Diamondfield Jack murder trial at Albion in 1897.

Many of the historic trails traverse the land there and ruts formed by the early days overland wagons are still in evidence, as well as writings on the rocks that tell the story of the emigrant days. Plainly, the history of the area is steeped in the romance of the Indian, the explorer, the fur trapper, and early settler.

The Silent City of Rocks is a priceless treasure, and failure to take proper steps to preserve this area would almost certainly have resulted in its deterioration and ultimately in the loss of the features that hold great historical and ecological significance." I feel this so strongly that I have unremittingly exerted my efforts toward the legislation I am introducing at this time which will insure the preservation of this great national heritage for the enjoyment of future generations, by establishing the Silent City of Rocks as a national monument.

Similar bills are being introduced today in the Senate by Senator CHURCH and Senator MCCLURE.

I include as a part of my remarks the text of my bill, H.R. 15983:

H.R. 15983

A bill to authorize the establishment of the City of Rocks National Monument in the State of Idaho, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) in order to preserve for the benefit and enjoyment of present and future generations an area containing outstanding geologic formations and unique historical values, including the passage of thousands of emigrating Americans pursuing expectations of new lives in the West, the Secretary of the Interior (hereinafter referred to as the "Secretary") is authorized to acquire lands and interests therein for the establishment of the City of Rocks National Monument.

(b) The City of Rocks National Monument shall comprise the lands generally depicted on the map entitled "———", Number "———", and dated ———, which shall be kept on file and available for inspection in the office of the Director, National Park Service, Department of the Interior, and in the office of the Assistant to the Regional Director of the Pacific Northwest Region, National Park Service, Boise, Idaho: *Provided, however,* That such area shall not exceed 32,000 acres. Within the boundaries of the National Monument, said map shall also outline the boundaries of a "Core Area" which shall not exceed 3,000 acres.

(c) The Secretary shall establish the Monument by publication of a notice to that effect in the Federal Register at such time as he determines that sufficient property to constitute an administrable unit has been acquired.

SEC. 2. (a) The Secretary is authorized to acquire by donation, purchase with donated or appropriated funds, exchange or bequest such lands or interests therein, including scenic easements, which he determines are needed for the purposes of this Act.

(b) Notwithstanding any other provision of law, any Federal property located within the boundaries of the Monument may, with the concurrence of the agency having custody thereof, be transferred without consideration to the administrative jurisdiction of the Secretary for use by him in carrying out the purposes of this Act.

(c) Any land or interest in land owned by the State of Idaho or any of its political subdivisions may be acquired by exchange.

(d) In exercising his authority to acquire property by exchange, the Secretary may accept title to any non-Federal property or interest therein, located within the Monument; and notwithstanding any other provision of law he may convey in exchange therefor any federally owned property within the State of Idaho which he classifies as suitable for exchange and which is under his administrative jurisdiction. The values of the properties so exchanged shall be approximately equal or, if they are not approximately equal, they shall be equalized by the payment of cash to the grantor or to the Secretary as the circumstances require.

SEC. 3. The grazing use of public lands outside the Core Area included within the boundaries of the City of Rocks National Monument shall, upon enactment of this Act, be deemed to be a use compatible with the purposes of such Monument and the provisions of this Act.

SEC. 4. Pending establishment of the Monument and thereafter, the Secretary shall administer property acquired pursuant to this Act in accordance with the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 1, 2–4), as amended and supplemented, and the Act of August 21, 1935 (49 Stat. 666; 16 U.S.C. 461–467), as amended.

SEC. 5. There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act.

QUESTION OF GOLD MISSING FROM FORT KNOX REMAINS UNANSWERED

HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 18, 1974

Mr. RARICK. Mr. Speaker, charges were aired recently in a national publication that America's reserve gold supply has been systematically looted. These are astonishing allegations indeed.

In the July 7 issue of the National Tatler former legal counsel for the American Gold Association and the U.S. Export-Import Bank, Dr. Peter David Beter, charged that an ad hoc committee, with the full knowledge and consent of the Federal Reserve Board, has illegally drained a substantial portion of the country's gold reserve and sold it on the international market.

I have no way of knowing whether or not the charges are true. In fact, no Member of Congress can fully know if the allegations are accurate, because the Federal Reserve System operates as a fourth branch of Government, apart from the oversight of this body. But I do know we had better find out—and quick.

The entire monetary structure of the United States is based on its gold reserve, so the economic implications of a conspiracy such as this are awesome, indeed.

Dr. Beter charges that much of the gold which is supposed to be stored at Fort Knox has been removed.

Since the Federal Reserve is not subject to independent accounting or Government audit, there is no way to prove—or disprove—these charges, barring, perhaps, congressional action.

I believe such action to be imperative. If the charges are true, this country faces an economic crisis more severe than any other in its history.

And if they are not true, then they must be disproved before people begin to believe them. Because if that happens, the resultant panic could cause the collapse of our monetary system.

On June 25, 1974, I wrote Dr. F. Burns, Chairman of the Board of Governors of the Federal Reserve System, to ask his comments on the charges raised in the Tattler article. Unfortunately, Dr. Burns prompt reply denying any "unauthorized transactions in System assets" raised additional questions, which remain unanswered.

In his June 28 response Dr. Burns states:

> None of it (the gold) is held by the Federal Reserve, except for amounts that may be stored at the Federal Reserve Bank in New York in its capacity as a fiscal agent of the Treasury.

He also enclosed a copy of the June 19, 1974, Daily Statement of the United States Treasury, but neglected to attach a copy of the most recent Statement of Condition of the Federal Reserve System, his own organization. Dr. Burns emphasized that "the System assets do not include gold."

However, an examination of the April 1974, "Consolidated Statement of Condition of All Federal Reserve Banks," furnished by the Library of Congress, reveals that as of March 27, the figure $11,460,000,000 appears in the "Assets" column under the heading "Gold certificate account."

Apparently, if both documents are accurate, something is amiss.

Either Dr. Burns is misinformed about the assets of his System, or between March 31 and June 28 something happened to those gold assets.

In any event, the charges deserve a more substantial answer than that given by Dr. Burns.

I include the related newsclipping and correspondence:

[From the National Tattler, July 7, 1974]

INTERNATIONAL SPECULATORS HAVE DRAINED MOST OF THE GOLD FROM FORT KNOX UNDER NEW LAW, SAYS TOP BANKING AUTHORITY

(By Tom Valentine)

(NOTE.—Dr. Peter David Beter, who is demanding an accounting of U.S. gold reserves, is an acknowledged expert on international and monetary law. From 1958 through 1961, he served as legal counsel for the American Gold Association. From 1961–67, he was counsel for the U.S. Export-Import Bank. He left that position to campaign (unsuccessfully) for the governorship of West Virginia in 1968. He has written three books on monetary subjects, his late being "The Conspiracy Against the Dollar." At the present time, he is serving as business advisor for international clients involved in gold and silver speculation with the African nation of Kinshasa Republic of Zaire, formerly a part of the Belgian Congo.)

International speculators have drained Ft. Knox of much, if not all, of its gold.

That is the astounding claim of Dr. Peter David Beter, one of the world's foremost authorities on international gold and silver exchange.

Dr. Beter, former legal counsel for the American Gold Association and the Export-Import Bank, is demanding that the U.S. government allow a "Blue-Ribbon" citizens' committee to inspect the sealed vaults at Ft. Knox.

"If I am wrong, and the government can account for the gold that is supposed to be stored there, then I think they should throw me into jail for rabble-rousing," Dr. Beter told Tattler.

"If I am right, the persons responsible for manipulating the sale of our gold reserves should be jailed," he said.

Prime target of Dr. Beter's charges is David Rockefeller, president of Chase Manhattan Bank, who denied the charges when reached by the Tattler.

His charges rest, Dr. Beter told a reporter on his personal knowledge of the gold market, information from a source high up in the Rockefeller organization and a president of a Swiss banking firm.

Since he first made the allegations, he has had confirmation from a source within the Pentagon, Dr. Beter added.

"I cannot reveal any names, but the confirmation came from a three-star general," he said.

Dr. Beter made his charges to the Congressional subcommittee on International Trade on April 23, 1974.

"But the Congress does not seem interested enough to investigate," said Dr. Beter.

A check by Tattler with the U.S. Treasury Department indicates that the United States is supposed to have 273,949,000 ounces of gold valued at $11.5 billion stored at four Federal Reserve Banks at Ft. Knox.

Dr. Beter claims much, if not all, of that gold has been transferred out of the country and is now stored in The Netherlands.

Charles Sigman of the Division of International Finance of the Federal Reserve System, supported Rockefeller's denial:

"As of this date, no public sale of the gold reserve has taken place," he said. "The published record shows there has been no change in the number of ounces of gold on hand.

It is Dr. Beter's contention that, although there has indeed been no public sale of U.S. gold, reserves have been removed from storage vaults and sold secretly.

The Gold Reserve Act, under which the ingots are kept, was signed into law by President Franklin D. Roosevelt in 1934. Basically, the law nationalized the United States' gold reserves and turned them over to the Federal Reserve System.

Section 3 of that act provides that this gold could be "acquired and held, transported, melted or treated, imported, exported or earmarked: (a) for industrial, professional and artistic use; (b) by the Federal Reserve Bank for the purpose of settling international balances."

The provisions of that statement remained in effect until 1968 when a group of nations, including the U.S., agreed not to buy or sell gold on the international market. That was reversed in a third change, in November of 1973, when Public Law 93–110 was signed into law by President Nixon, once more allowing the sale of U.S. gold.

It is Dr. Beter's contention that, since last November, the country's gold reserves have been drained by a handful of international monetary speculators with the blessing of the Federal Reserve System.

The Federal Reserve Board, in whose custody the country's gold has been entrusted, is little understood by most Americans.

An official of the agency in Chicago described it as "a quasi-government agency. Member banks own stock in the system but have no vote on policy. The policymakers are on the Federal Reserve Board, appointed by the President for an indefinite period."

Dr. Beter stresses that the Federal Reserve System is not subject to accounting or government audit.

The Chicago official confirmed this. "We audit ourselves," he said.

The signing of Public Law 93–110 in 1973, the one allowing bullion sales, unfortunately confuses the question of who actually owns the gold held by the Federal Reserve Banks and who has access to it, Dr. Beter finds.

"There is now a question of whether the legal title to the nation's gold reverts to the office of the President, the Treasury, the Federal Reserve banks or the people," he said.

A joint committee presently is studying that very question, according to Dr. Beter. The committee consists of Arthur F. Burns, board chairman of the Federal Reserve System, George Schultz, former Secretary of the Treasury, Henry Kissinger, Secretary of State, Peter Flanigan of the White House staff and Herbert Stein of the Council of Economic Advisors.

Sigman, of the Federal Reserve System, confirmed that it has been legal since last November to sell U.S. gold reserves "but no such sales have taken place."

"In March of 1968, a group of countries agreed not to buy or sell gold on the market. In November last year, one part of the agreement was nullified and governments were allowed to sell gold if they desired. There have been no public sales."

"Sales have taken place," counters Dr. Beter, "secret and unlawful sales."

He points out that when the law was changed last November, the Secretary of the Treasury Schultz, a member of the joint committee responsible for the change bluntly stated:

"The United States will keep any gold sales secret and the decision to sell gold will be made by the joint committee."

Mrs. Mary Brooks, director of the Mint at Ft. Knox, claims the charge that gold has been removed from the vaults there, "preposterous and ridiculous."

She said most of the vaults there have not been opened in many years but that the gold can be observed from the outside.

She said the last time she or anyone else literally observed the gold in such a manner was last spring.

Mrs. Brooks told Tattler, "The gold is audited once each year in July. The auditors' do not enter the vaults. It takes a special committee to do that. The doors are sealed and have wax ribbons over them. The auditors check the seals as proof the doors have not been opened."

Dr. Beter claims a substantial amount of gold has been removed from the vaults since last November.

He wants a citizens committee to be allowed to enter the vaults and determine once and for all if the nation's gold supply is still intact.

"If it is not, and I am certain it is not, those responsible for its removal should be prosecuted," he says.

"I LAST SAW IT 10 MONTHS AGO," SAYS GUARD

After spending exhausting hours on the telephone, attempting to gather genuinely reliable data for the truth about our missing gold resources, Tattler drew two conclusions:

No one actually has seen the gold in a long, long time.

Few bureaucrats actually know what's going on within the limits of the American government.

Articles Editor Tom Valentine was forced to make five calls and suffered through 16 transfers and referrals to obtain the information he needed.

He first dialed the office of Arthur F. Burns, chief of the Federal Reserve system. Since Burns was in Europe, Valentine was transferred to Charles Sigman of the Division of International Finance. When asked if the U.S. had made any secret gold transactions, Sigman said he didn't know, but referred Tattler to the U.S. Treasury Department, which publishes a daily document listing the amount of gold on hand and its value.

Valentine phoned the Treasury's publications office, but a worker told him she knew of no such document.

He then was transferred to information, to the Bureau of the Mint, back to information, to the office of the Secretary of the Treasury and finally back to the switchboard operator, who had the document at hand and read to him the information he sought.

Tattler then wanted to know who guards the gold in Ft. Knox and who has seen it.

Valentine contacted the fort's public affairs officer on his third call. That man referred him to the Pentagon for the information, since he didn't know.

The Tattler news seeker then dialed Washington again, reaching the office of the Secretary of the Army.

Six transfers later, one of which went to the Department of Navy, Valentine learned that no military group guarded the gold. Instead, a special branch of the Treasury Department keeps that trust.

Valentine's fifth call went to the Treasury, where he needed two transfers to speak to James McGee, safety officer in charge of the Ft. Knox detail.

Tattler asked him if he had seen the gold. He said he had, "many times," but referred Valentine to Roy Cahoon, his public affairs officer, for a more concrete answer.

After hours of Valentine's arduous search, Cahoon finally told him Mrs. Mary Brooks, director of the mint, is responsible for the security of gold and silver bullion.

Transferred to her, Tattler learned she last saw the contents of Ft. Knox "quite a while ago, about 10 months ago, I guess.

"Of course, one doesn't actually open the vaults to see the gold," she said. "Those vault doors are never opened. They're sealed.

Is the gold still there? No one really knows, it seems.

JUNE 25, 1974.

Mr. ARTHUR F. BURNS,
Chairman, Board of Governors, Federal Reserve System, Federal Reserve Building, Washington, D.C.

DEAR MR. BURNS: I am enclosing a tear sheet from the front page of the National Tattler, charging that the Federal Reserve has made a secret sale of U.S. gold supplies overseas to David Rockefeller.

I would appreciate the Fed's comments on the validity of this article.

Sincerely,

JOHN R. RARICK,
Member of Congress.

FEDERAL RESERVE SYSTEM,
Washington, D.C., June 28, 1974.

Hon. JOHN R. RARICK,
House of Representatives,
Washington, D.C.

DEAR MR. RARICK: So far as I know, the article on gold in the July 7, 1974 issue of the National Tattler, which you enclosed with your inquiry of June 25, is totally without foundation. Certainly, the comments contained therein about the Federal Reserve System are baseless. Specifically, 1) the Federal Reserve System has made no sales of gold to foreigners, nor would it be legally empowered to do so; 2) I am not serving on any Committee that is studying the quesion of legal title to the U.S. gold stock; 3) we have in no way been involved in the use of the nation's gold reserves "by a handful of international monetary speculators."

As I am sure you are aware, the United States Treasury is charged with accounting for the nation's stock of gold. None of it is held by the Federal Reserve, except for amounts that may be stored at the Federal Reserve Bank of New York in its capacity as a fiscal agent of the Treasury. The Treasury's Daily Statement, a recent copy of which is enclosed, reports that the gold stock is very close to its level of a year ago. I see no reason whatever for questioning this report.

Finally, the article states that the Federal Reserve System is not subject to accounting or government audit. Let me point out that each Federal Reserve Bank is subjected to strict internal auditing procedures and that each is examined every year by staff of the Federal Reserve Board, subject to the review and advice of an independent national firm of certified public accountants. I am confident that our system of audits and examinations would quickly disclose any unauthorized transactions in System assets, which, I repeat, do not include gold.

Yours very truly,

ARTHUR F. BURNS,
Chairman of the Board of Governors, Federal Reserve System.

JULY 11, 1974.

Dr. ARTHUR F. BURNS,
Chairman, Board of Governors, Federal Reserve System, Federal Reserve Building, Washington, D.C.

DEAR DR. BURNS: I greatly appreciate the courtesy of your prompt reply of June 28th in answer to the "No Gold Left in Fort Knox" article which appeared in the July 7th issue of National Tattler.

There still appears the feeling among the public that something is amiss in our monetary standard and that gold is related to these suspicions. Secretary Simon's statements to the Banking and Currency Subcommittee last night reassured little when he admitted that he had never been to Fort Knox and that he had never seen the American people's gold supply.

I do feel that something must be done, and rapidly, if we are to allay public fears on the gold question. Accordingly, as a member of Congress and the Representative of my people, I ask your authority to visit the depository of our gold and to visibly make an examination and an accounting of the amount of gold which is the property of the American people under the control of their government.

Sincerely,

JOHN R. RARICK,
Member of Congress.

FIFTEENTH ANNIVERSARY OF THE ADOPTION OF CAPTIVE NATIONS WEEK RESOLUTION

HON. JOHN J. ROONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 18, 1974

Mr. ROONEY of New York. Mr. Speaker, in 1959, just 3 years after the heroic but ill-fated uprising of the Hungarian people against their cruel godless red Communist bosses, the Congress of the United States unanimously adopted Public Law 86–90 designating the third week in July each year as Captive Nations Week.

This week we mark the 15th anniversary of the adoption of that law creating Captive Nations Week. What is most significant about this year's observance is that it comes at a time when the aura of détente between the United States and the Soviet Union is tending to obscure the political, cultural and human realities of godless communistic imperialism in eastern and central Europe.

Mr. Speaker, at this very moment over 100 million people in states from Latvia, Estonia and Lithuania in the north to Albania in the south are trapped behind an Iron Curtain that continually frustrates their every attempt for freedom, self-expression and cultural identity.

This year Captive Nations Week will be observed against the background of the 35 nation Conference on Security and Cooperation in Europe. The red godless Communist leadership in the Kremlin now feel that they are within reach of a long cherished dream of nearly three decades: getting all of Europe and North America to formalize the existing ruthless political division of Europe and setting a seal of approval on the status quo.

That conference must not be allowed to do that under any circumstances, Mr. Speaker. What we need is not acquiescence and capitulation but firm resolve and united strength in the face of monstrous tyranny and injustice. The people of Eastern Europe, based on a great and long history and tradition and by much recent history, deserve to be free and the masters of their own fate.

Captive Nations Week serves as a reminder to the godless red Communist rulers of Eastern and Central Europe that Americans continue to care about the plight of the captive nations, that the fine people in them have not been forgotten, and that their hopes and aspirations are shared by millions of us who have the privilege of living in freedom.

Mr. Speaker, we, as the main hope of these unfortunate people, cannot ignore them and their constant pleas for help and assistance. We must do everything in our power to see that all of those great and ancient states of Central and Eastern Europe are set free from the oppressive yoke of vicious Communist oppression and that we warmly welcome them in the family of free men.

MICHIGAN MEMBERS OF BIRMINGHAM EDUCATION ASSOCIATION DISAGREE WITH ACTION OF NATIONAL EDUCATION ASSOCIATION

HON. ROBERT J. HUBER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 18, 1974

Mr. HUBER. Mr. Speaker, on May 7, 1974, I noted in the Extensions of Remarks on page E2820 that many Michigan members of the National Education Association opposed the position of the NEA in favor of forced busing in the Detroit case. This fact has again been confirmed by my receipt of petitions from members of the Birmingham Education Association in Michigan. There are approximately 470 teachers in the Birmingham Education Association. Out of these 470 teachers asked, 302 were willing to sign petitions. On one petition, 10 teachers asked that their NEA dues be refunded if the NEA continued to back the NAACP in this matter. Thirty-seven teachers stated in a petition that they were never allowed an opportunity to vote on this issue and would like to do so. Two hundred thirty-two signed petitions stating that they are opposed to the NEA position on busing and that they had never had an opportunity to vote on the issue. A further 22 teachers signed a petition stating they were opposed to the NEA position, were against forced busing, that they favored neighborhood schools, and had had no opportunity to vote on the NEA stand. In addition, the teacher sending me these petitions endorsed all these stands—hence 302 teachers participated.

This all shows, in my view, that the National Education Association is quite out of step with its membership on this issue of busing and that if it is going to pretend to be a truly democratic organization, it ought to poll its membership before taking such stands.

GLADIOLUS IS KING IN MOMENCE

HON. GEORGE M. O'BRIEN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 18, 1974

Mr. O'BRIEN. Mr. Speaker, back in my district in Illinois there is a very lovely city called Momence, which is famous for its flowers—or more accurately, for one flower, the gladiolus.

Glads grow in Momence about the way tulips grow in Holland and the townspeople are justifiably proud of their industry. Each summer when the gladioli are in full bloom, the people demonstrate that pride by staging the Momence Gladiolus Festival.

Next month Momence will hold its 37th annual festival and, believe me, it will be no ordinary flower show. The event is one of the most outstanding of its type held anywhere in the Midwest.

On August 8 literally thousands of visitors will converge on Momence from all over the Nation for 3 days packed with activities for the whole family.

Festivities will begin Thursday afternoon with the opening of the official flower show, a must for every flower lover. Gladioli of every color in the rainbow will be shown by amateurs and professionals alike and the Momence Woman's Club has planned a special exhibit of glads and other garden flowers in a variety of outstanding arrangements.

After even a brief visit to the show, a visitor can have no doubt that the elegant gladiolus is king in Momence.

Later that evening hundreds of costumed children and their pets will march in the kid's parade featuring bands and floats decked with flowers.

Thursday's events will culminate in the coronation of the 1974 Gladiolus Queen and Princess during a pageant of flowers and music. Their highnesses will reign in splendor over the remaining days of the festival.

The activities will pick up again Friday afternoon with a rousing concert performance by the Plainfield, Ill., High School band at the downtown reviewing stand. From there, the action will move to the street for a bigger parade replete with bands, color guards, marching units and, of course, floats. In the evening, tired visitors can relax at a variety show with entertainment appealing to everyone from tots to grandpops.

The festival will reach its zenith on Saturday. For the 13th consecutive year, the festival will feature an old car show sponsored by the Momence chapter of the Antique Automobile Club of America. Anyone who appreciates beautiful workmanship and antique cars will revel in the collection on display. Last year's show was the largest in the State, and this one promises to top it by a mile. Over 200 of these magnificently restored vintage cars will be competing for honors.

As a grand finale on Saturday night, top drum and bugle corps from all over the United States will compete for thousands of dollars in prizes. This outstanding event is the oldest continuous competition of its kind in the Nation and by far one of the finest.

A flea market will be held simultaneously with the car show to heighten the old-time atmosphere. Since Momence is noted throughout my district for its exquisite antique shops, bargain hunters are bound to have a field day.

For a little added excitement, the festival will feature a carnival complete with hair-raising rides, cotton candy, and all the other trappings.

Momence is always a pleasant place to visit. The city, with its tree-lined streets and interesting shops, is framed by the rural splendor of Kankakee County where the land is rich and the people are warm and friendly. With those qualifications, it is not hard to understand why the annual gladiolus festival is so successful.

This year I will have the pleasure of attending the festival along with my family as I have many times before. I am sure we will enjoy every minute of it, thanks to the people of Momence who have worked so hard to make this event a success over the years.

EUROPEAN COMMON MARKET COUNTRIES ACT TO PROTECT THEIR BEEF PRODUCERS

HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 18, 1974

Mr. RARICK. Mr. Speaker, I and quite a number of our colleagues have repeatedly urged the President to reimpose import restrictions on the importation of agricultural products into this country as a means of affording some protection to our domestic farm producers from foreign "dumping."

Regrettably, the President has not seen fit to return to the import quotas established by the Meat Import Act of 1964.

Seemingly, the administration fails to realize the importance of protecting this country's food and fiber producers, especially when the market is glutted.

This is not the case with the other countries of the world. Recent news reports indicate that the European Common Market countries have instituted a ban on beef imports, through October of this year, in an effort to reduce the massive surplus of beef available in those countries.

This action by the farm ministers of the Common Market countries constitutes another major threat to this country's beef producers. The excess beef—and the news story indicated that the Common Market countries would themselves encourage meat exports—will have to go somewhere. And the logical choice, unless the President heeds the pleas of our cattle producers, will be to dump it on the U.S. market.

In the light of this situation, I urge the President to take similar action by returning to those quotas established by the Meat Import Act of 1964. Should he fail to act, and act now, the ultimate loser in this situation will be the American consumer as more and more cattlemen are forced out of business, thus reducing the flow of domestic beef into the U.S. market in the future.

I insert a related newsclipping:

[From the Washington Post, July 17, 1974]

BEEF IMPORTS BANNED TO COMBAT SURPLUS

(By Douglas Ramsey)

BRUSSELS, July 16.—Under pressure from European cattle raisers, Common Market farm ministers tonight approved a ban on all beef imports to reduce the present massive surplus of domestic and foreign meat.

The ban on imports will continue through October.

It replaces the current scheme which forces beef importers to buy the same poundage from European surplus stocks that they import from other countries. Imports into the nine-member countries exceeded 250,000 tons at mid-year, ten times the amount forecast in January, an EEC spokesman said.

Official U.S. observers say that the move could cause a serious diversion of beef onto the American market, where the cattle lobby is already pressing for action to reduce imports. This has led observers to speculate that Washington may be forced to reintroduce import quotas which were lifted in early 1973.

The beef glut in the Common Market reached crisis proportions with the announcement two weeks ago that over 220,000 tons will have to be stockpiled by the end of this year, a record high.

The situation has already reached the point where refrigerated warehouses are unable to store any more beef.

France and Ireland were the prime movers behind the import ban. Between them, these two countries have piled up over 75,000 tons of beef, over 50 per cent of the current EEC surplus.

Late this evening, the farm ministers were engaged in negotiating the details of other measures to help reduce surplus beef in the Common Market. The package is almost certain to include two other major measures, one Irish official said.

Subsidies to cattle raisers would be granted to encourage them to delay slaughtering until January when supply is normally at its lowest.

The EEC will pursue an "active" export policy, which would mean higher amounts paid to farmers who export their beef. This move would be seen as giving tacit approval of a rumored "cheap sale" of beef to the Soviet Union.

The subsidies to cattle raisers could cost as much as $350 million. They would be paid each month after October to keep beef on the hoof. The goal is to keep it off the market in a peak supply period.

Viewed in the light of two years of constant fluctuation between surplus and shortage on the European beef market, today's move came as no surprise. In early 1973, the EEC raised the prices which are guaranteed to cattle raisers by over 25 per cent to stimulate production.

In retrospect, that decision was an overreaction. It caused an estimated 15 per cent increase in production this year while consumption has remained the same.

It is nevertheless clear that imports are the prime cause for the glut. In January, the EEC executive commission estimated that only 25,000 tons of imports would be necessary to fill the gap between EEC consumption and production this year.

Yet in the first half of 1974, the nine member countries imported a total of 264,000 tons of beef.

With retail prices remaining at the same levels as last year, wholesalers are apparently making a big killing on the lower prices they are paying to cattle farmers. This has led to farm demonstrations in Italy, France and Belgium over the last week to get their farm ministers to take swift and concrete action.

Europe's import ban is likely to come under heavy international criticism. Apart from Australia, Argentina and other traditional suppliers of the Common Market, consternation is certain to be voiced by Washington which will now come under greater pressure from American cattle interests to stem the flow of imports into the U.S.

Critics of the scheme note that the ban excludes for the foreseeable future any letup in retail beef prices, as might otherwise have been expected. On the contrary, they say, as imports grind to a halt the price of beef in the grocery store is certain to rise.

DEPRESSED HOUSING MARKET

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 18, 1974

Mr. LEHMAN. Mr. Speaker, the housing market is in a severe depression, and today thousands of American families are being priced out of the market for decent homes.

The primary problem is the current high interest rate policies pursued by the Federal Reserve. We have a severe interest rate war underway, and the thrift institutions are experiencing a sharp outflow of funds, to the detriment of people seeking mortgages.

High interest policies have left the Nation with an ever-increasing backlog of needs for housing and community development. Total housing production in 1973 was 2.6 million units, a 10.9 percent decrease from the record level of 1972. Housing starts in 1973 declined by 324,700 units from 1972 levels. And in the last 14 years alone, starts on single family homes contracted from 80.5 percent of all residential construction to 55.1 percent.

These policies have fostered high housing costs and builders have constructed more and more housing for the affluent—the only ones who can afford the high downpayments and the high monthly charges imposed by high interest rates. For example, among new one-family homes which have been sold, only sales of homes priced at more than $30,000 increased in 1973 over 1972. More specifically, in 1972, close to 150,000 homes in the $20,000 to $25,000 price range were sold, whereas in 1973, only a few more than 75,000 of such homes were sold.

On the other hand, in 1972 there were just short of 200,000 homes sold costing more than $35,000, while in 1973, close to 250,000 such homes were sold.

The result has been a widening gap between supply and demand in housing for low- and moderate-income families. In fact, today a $20,000 home will require about $40,000 in interest payments over the life of a 30-year mortgage. In other words, the homebuyer must pay three times for the same home, with two-thirds of the total cost in the form of interest payments.

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, homebuyers are discouraged, not only by the high cost of money, but by its scarcity.

By its dependence on high interest rates, the Federal Reserve is creating havoc within the housing industry, while doing little to cool inflation. This policy must be reversed if we are serious about providing decent homes for all Americans on reasonable terms.

CADET DODDS RETURNS TO ACADEMY

HON. TENO RONCALIO

OF WYOMING

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 18, 1974

Mr. RONCALIO of Wyoming. Mr. Speaker, on June 10, 1974, I introduced a private bill for the relief of John Bruce Dodds, a young cadet at the U.S. Air Force Academy. Cadet Dodds had his leg removed last April after discovery of a malignant tumor. It was his greatest desire to be able to complete his final year at the Academy although he fully realized that he would be unable to receive a commission after graduation.

However, the Academy's policy was such that Cadet Dodds could not return to fall classes at the Academy if he was not physically fit to receive a commission. The bill which I introduced and an identical bill introduced in the Senate by Senator McGEE and cosponsored by Senators HANSEN, CRANSTON, HASKELL, and KENNEDY would have allowed Cadet Dodds to complete his studies at the Academy despite the Academy policy.

I received numerous calls from other Members of the House and Senate expressing their interest in the private bill and in the plight of Cadet Dodds. Chairman HÉBERT of the House Armed Services Committee graciously was willing to move ahead with the private bill so that action could be taken in time that Cadet Dodds would be able to resume his studies this fall.

Yesterday we learned the wonderful news that the Air Force has decided to allow John Bruce Dodds to return to the Academy this fall and graduate with his classmates. We can only imagine how happy and relieved both Cadet Dodds and his family must be.

Col. John Dodds, Cadet Dodds' father, expressed to me his thanks to all of the Members of Congress and people everywhere who expressed an interest in the matter and support the Cadet's case. I know that many of my colleagues will want to join me in extending to Cadet John Bruce Dodds success in his senior year at the Academy and every good wish for his future.

U.S. ENERGY CRISIS AND GERMANY'S IN 1924

HON. EARL F. LANDGREBE

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 18, 1974

Mr. LANDGREBE. Mr. Speaker, an editorial appeared in the June 19 edition of the New York Times that I believe ought to be brought to the attention of Congress. It is lamentable that governmental leaders have such poor memories, but I am afraid that they are really no different from those outside of government.

Sometimes our memories should be refreshed so that we may see that other nations, other peoples, have been where we now are, and learn from the actions they took.

Mr. Hughes points out the plight of Germany in 1924 and the actions taken to head off an energy crisis. While one should hesitate to draw parallels, I believe that the decades of the 1920's and the 1970's are similar and that the experiences Germany suffered then and later will also be suffered by this country if we do not return to our first principles of government as outlined in the Constitution.

The article follows:

THE U.S. ENERGY CRISIS AND GERMANY'S IN 1924—AN ANALOGOY

(By Thomas P. Hughes)

PHILADELPHIA.—Few Americans know that there is a precedent in recent history for our energy crisis. Furthermore, the reactions then remarkably similar to proposals that have been made in response to ours. The ultimate outcome of the earlier crisis and the response to it were unfortunate; it is hoped that a similar situation can be avoided now.

In 1924, Germany faced an energy crisis. Possessing inconsequential amounts of native crude oil, Germany was alarmed by pessimistic predictions of dwindling world supplies. Some experts forecast that the world supply would be exhausted in a few decades. Even before this happened, Germany, a modern industrial nation dependent upon petroleum imports to maintain her industrial and transportation system, could reasonably expect spiraling prices.

Furthermore, dependence upon imports of crude oil or gasoline was seen as an Achilles heel by her foreign policy and military experts who had experienced the dire shortages of World War I only a few years earlier. Added to these problems was a shortage of foreign exchange and unfavorable trade balances.

Under these energy-crisis circumstances, Germany's largest chemical concern. I. G. Farben, responded resourcefully. Having developed processes and invested in equipment for the production of synthetic ammonia and synthetic methanol by high pressure, high temperature, catalytic chemistry, the company decided to make the heaviest research-and-development investment in its history in

a process for making synthetic gasoline from coal, abundant in Germany.

At the time the decision was made, Carl Bosch, winner of the Nobel Prize for the ammonia synthesis process, headed I. G. Farben.

Mr. Bosch and his advisers had analyzed the technological and economic factors. They had assembled a team of research-and-development scientists and engineers experienced in the earlier ammonia and methanol process; they arranged that equipment developed for the earlier synthetics could be used for the synthetic gasoline.

Quite reasonably, they projected rising gasoline prices on a 1924 base, for the world supply was dwindling. Probably they anticipated that the middle-of-the-road Weimar Government would provide some tariff protection if needed for competitive pricing. Mr. Bosch and his advisers believed that within several years I. G. Farben could have a synthetic gasoline process that would produce the fuel near the prices of the mid-twenties.

By 1929, however, so many complications had arisen in the development phase of a process far more complex than the earlier ones that some members of the Farber board recommended abandoning it. However, the investment was too heavy and success seemed too near not to persist.

Most technological problems had been surmounted and projected cost objectives were being approached when the Depression of 1929 and the discovery of abundant crude oil in Texas made a mockery of the Farben forecasts.

Synthetic gasoline made from coal could compete with gasoline from crude—but at 1924 prices. In 1930, however, the price of imported gasoline in Germany was a fraction of the 1924 price.

Farben in dire straits turned to the Government for more tariffs, but the price gap was too great and there were interests in Germany that countered the high-tariff influence of Farben.

In essence, the situation in which Farben found itself was like that in which an American corporation or Government agency might find itself four or five years from now. After heavy investment in a mammoth research-and-development project, the corporation or agency faces disastrous consequences because of a turn in affairs beyond its control.

The scenario for an American corporation in the future might be as follows: Having been encouraged to develop a gasoline-from-coal process by the projection of the inflated price of a barrel of crude in 1973–74, the corporation invests heavily in a process that was uneconomical until the dramatic rise in the price of crude oil.

Economic disaster threatens, however, about the time the corporation is meeting its goal because somewhere in the world a supplier of crude, not influenced by American suppliers or diplomacy, decides to dump large quantities of low-price crude on the world market.

The particular course of action that would be taken by the American corporation cannot be predicted, but the course followed by Farben under similar circumstances is known.

Burdened with a white elephant, the corporation sought and found the unusual conditions in which white elephants flourish. The Nazis came to power in January, 1933, and within a year Farben had signed a contract with the new totalitarian regime. The arrangement guaranteed Farben a market and an acceptable price for the synthetic gasoline.

The Nazis decided that the nation needed indigenous fuel in the interest of balance of payments to strengthen its diplomatic and military position.

The point of the analogy here with the American situation is not to suggest that if American corporations invest heavily in alternative fuel sources that depression, discovery of new oil fields or price-cutting would lead to alliances with totalitarianism and war.

The point is, however, to suggest by historical analogy that the nation should not be committed to a massive research and development enterprise without candid public discussion by Government and corporation officials of the complexities of the situation.

The impression has been left with the public that prices of crude oil will continue to rise because of dwindling world supply and that the country can erect an economic and political barrier behind which self-sufficiency in energy can be pursued by research and development.

Such simplistic projections ignore experience: Crude-oil prices did not continue to rise after 1924 and the dwindling supply turned into one of abundance. Furthermore, powerful influences in Germany, such as the automobile manufacturers and the consuming public, did not tolerate the high tariff barriers that would have excluded foreign oil.

Furthermore, the American Government should forthrightly raise the question of what would be done for a corporation or Government agency that has invested heavily in a synthetic-oil process that turned out to be uneconomical.

EFFECTIVE ELECTION LAW SUPERVISION

HON. BILL FRENZEL

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 18, 1974

Mr. FRENZEL. Mr. Speaker, Mr. Smith Hempstone, in a thoughtful editorial in the Washington Star-News, recently called attention to the House Administration Committee bill which puts "supervision of proposed new and stiffer campaign finance regulations in the hands of a seven-member board almost wholly beholden to the House and Senate."

Hempstone continues:

If there's one thing that's needed to reform campaign financing, it's to remove enforcement of the election laws from the hands of politicians.

The Star editorial notes that the Senate Watergate Committee recommended with special emphasis the need to put election laws under an independent agency. He states:

Creation of an independent federal elections commission is one of the few things that Nixon and the Senate Watergate Committee saw eye to eye on.

I commend the Star editorial to all Members interested in election reform. The final sentence is especially interesting:

When the campaign bill gets to the House floor, Members who are seriously considering impeaching President Nixon for the transgressions of the Watergate White House will have to search their consciences before going along with the Administration Committee's cozy arrangement for Congressmen.

BAN THE HANDGUN—LI

HON. JONATHAN B. BINGHAM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 18, 1974

Mr. BINGHAM. Mr. Speaker, recent events continue to emphasize the folly of permitting easy access to lethal handguns. Within the last few weeks we have witnessed the tragic murder of Mrs. Martin Luther King, Sr., the unwittingly ironic killing of a lobbyist for the National Rifle Association, and the televised suicide attempt of a young Florida TV host.

These particular incidents of handgun violence reached the headlines. But similar tragedies occur daily in hundreds of communities. The relative anonmymity of the aggressors and victims does not render the situation any less serious. On the contrary, it points out that it is the ordinary citizen who suffers the greatest exposure to the dangers resulting from inadequate gun controls.

It is time the Congress ceased to tolerate the popular fascination with violence and refused to submit to the vicious pressures of the gun lobby. The only way to deter senseless violence is to arrest the proliferation of handguns whose availability escalates hostile situations to violent tragedies.

An editorial in today's Washington Post piercingly describes the choice with which we are faced: either further injury and death arising from congressional inaction, or a commitment to achieving a safe, civilized society by legislating effective gun control. The editorial follows:

THE TOLL OF THE GUNS

It is impossible to say when, if ever, this civilized nation will have a law that drastically reduces the number of guns in the hands of private citizens. That we believe such a law is long overdue should come as no great surprise. The longer our legislative leaders soft-pedal that need under the pressure of the gun lobbyists, the worse the situation becomes. Guns proliferate: one citizen fears the other citizen's gun and so arms himself in a never-ending chain-reaction, culminating all too often in needless tragedy.

Over the weekend, two incidents occurred that strengthened our concern over this chain-reaction and its proliferating impact on the easy availability of guns. In Sarasota, Fla., the other morning, a young woman broadcaster opened her show with this pathetic plaint: "In keeping with Channel 40's policy of bringing you the latest in blood and guts in living color, you are going to see another first—attempted suicide." With that, she shot herself in the temple with a .38 calibre pistol. Her family said she had been despondent over the weekend. We would only note again how the ready availability of a gun, when combined with a mood of despondency or rage, can lead all too easily to tragedy.

What rage occurred in the minds of several Washingtonians last Saturday night, we cannot say. But the result of an argument at the front door of an upper 16th Street residence was that one man died from a hail of gunfire from a sawed-off shotgun and a pistol. The words of a relative of the victim, undoubtedly in a state of anguish after the

loss, offer some measure of the problem involved in controlling the sale or ownership of firearms. "Every person in the United States," the relative said, "should have a gun, and kill every son of a bitch who looks like he is going to use it."

Unintended though it was, we can think of no better argument for gun control than that one quotation in Monday's editions of The Washington Post. The choice is simple: either we allow the ownership of guns to proliferate to the point where reaching for your handkerchief can cost you your life, or we go the saner course and begin by outlawing handguns.

CONSUMER RIP-OFF WITH POLITICAL PROTECTION

HON. GENE SNYDER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 18, 1974

Mr. SNYDER. Mr. Speaker, I and many of my colleagues voted for Federal Consumer Protection Agency legislation with certain fears and reservations, but after reading the following exposés in the Louisville Times on July 15, and Courier-Journal on July 11, I am convinced that we did the right thing. Obviously, existing State laws are not doing the job.

I am having these articles reprinted in the RECORD as justification for the action of those of us who supported the legislation.

[From the Louisville Times, July 15, 1974]

MOBILE-HOME DEALER IS AT CENTER OF WIDE-RANGING PROBES

(By Richard C. Halverson and Frank W. Clifford)

On Dixie Highway, Terry Goff was selling house trailers to GIs and retired farmers. In Pewee Valley, he was building a dream house.

Complete with stained-glass windows and an indoor swimming pool, according to Goff's architect, it was styled after the house singer Johnny Cash had built for himself outside Nashville, Tenn. Goff even hired the man who designed Cash's house, Nashville architect Braxton Dixon.

The house wasn't all. Goff drove luxurious cars, a Cadillac and a Lincoln. He bought an airplane and hired his own pilot.

At the same time, he was presiding comfortably over a mini-empire of nearly a dozen mobile-home, motor homes, camper and boat dealerships strung along Dixie Highway between Shively and Valley Station.

But since the first of this year, Goff's fortunes have changed drastically. Companies he formed have been the objects of court-ordered judgments totaling at least $400,000. A major creditor recently repossessed 123 mobile and motor homes from four of his dealerships.

In addition, Goff's operations are under scrutiny by state and federal law-enforcement officers in connection with three separate criminal investigations involving claims of arson and interstate fraud.

The investigations, which do not focus exclusively on Goff, have not resulted in any arrests.

They concern four fires that occurred on property occupied by Goff's dealerships in Jefferson County, a fire in a Virginia manufacturing plant bought by Goff last January, and an allegedly fraudulent purchasing scheme involving more than 30 mobile homes obtained from manufacturers in Alabama and Tennessee.

Law-enforcement officers in charge of the investigations have estimated that property losses caused by the fires and alleged fraud amount to almost $1 million.

Although Goff's enterprises apparently did not begin to suffer major setbacks until fairly recently, his troubles didn't materialize overnight.

During the last two years, the state attorney general's office has amassed a weighty file of consumer complaints against Goff's businesses. As far back as 1969 and 1970, Goff was losing lawsuits to aggrieved customers who stated that they had never received delivery of the trailers they bought, or who claimed that the trailers they did receive were loaded with defects.

For the time being, the 34-year-old Goff doesn't seem to want to talk to reporters about the shape of his businesses or about the investigations. Times reporters called him last week at a motel in Williamsburg, Ky., where he had been staying.

During a telephone interview last week, he replied "no comment" to more than 30 questions.

But he did say that he is no longer in the mobile-home business. It wasn't the first time in recent months that Goff has hinted of withdrawing from the business.

In a court statement last April, he said that "another gentleman"—a Charles Jackson—was "coming in, taking over my operations."

Records show that Jackson, a resident of Gadsden, Ala., faces numerous criminal charges in Alabama, including grand larceny, conspiracy to commit fraud, passing worthless checks and obtaining property by fraud. Many of the charges stem from Jackson's involved in the mobile-home business in Alabama.

Early this summer on a Dixie Highway lot, formerly occupied by one of Goff's dealerships, Jackson opened Godfather Mobile Homes, Inc.

Reporters have been able to learn only a few details about Goff's past. He is a native of Greensburg, Ky. During the mid-1960s, he worked as an assembly-line foreman.

In 1969, Goff established Jefferson Mobile Homes, Inc. Records on file in the Jefferson County Courthouse and at the Kentucky secretary of state's office indicate that the formation of Jefferson marked Goff's entry into the mobile-motor home business.

During the following years, Goff established sales outlets under such names as Jo-Mar Mobile Homes, Majestic Homes, Inc., Champion Motor Homes, Inc., Trailer City U.S.A., Repossession Sales, Inc., Mark Mobile Homes, Louisville Winnebago, Inc., Winchester Mobile Homes and Louisville Chrysler Marine, Inc.

LAWYERS HAD POLITICAL TIES

Goff secured the legal services of two Louisville lawyers with solid reputations and close political ties to the Democrat who was elected Jefferson County judge in 1969, Todd Hollenbach.

The lawyers are John Nold and Dennis Clare. During the five-year period that Nold represented Goff, he served as a Quarterly Court prosecutor and later as a judge. He resigned from the court in April to resume his private practice full time. (State law permits Quarterly Court officials to maintain private practices.)

Clare was a county probate commissioner in 1970, 1971 and 1972. He is now the director of the county's fire-protection system.

Nold and Clare are members of the firm that includes the current Democratic candidate for Congress from the state's 4th District, Kyle T. Hubbard. Hubbard also has represented Goff in court cases. But he has done so only two times, according to records checked by reporters.

Goff managed to acquire financing for his operations from Westinghouse Credit Corp.—a subsidiary of the 14th-largest corporation in America, Westinghouse Electric Corp.

Records of Goff's business transactions reflect that Westinghouse Credit not only provided financing for much of Goff's inventory of mobile and motor homes, but also financed sales contracts for retail customers who bought from Goff.

Goff's associations with Nold and Clare have not been limited to simple lawyer-client relationships. Similarly, his dealings with four Westinghouse Credit officials have not been confined to transactions over mobile-home financing.

Nold was one of five stockholders, including Goff, who formed Sun Valley Mobile Home Park, Inc., in October 1970 and bought a mobile-home park at 12517 Dixie Highway three months later.

In a court statement last spring, Goff said Nold owned a 20 per cent interest in the park.

Nold acknowledged holding an interest in the corporation, which he said still exists. But he said stockholders sold the park last June.

Nold also acknowledged his involvement with Goff and others in two oil and gas leases near Williamsburg, in Southeastern Kentucky. He said he acquired fractional portions of the leases in late 1972 or 1973.

Nold said Clare, too, purchased a small portion of a working interest in one of the leases. Clare confirmed his interest.

In one of the leases, Goff's and Nold's fellow investors include four Westinghouse Credit officials.

The officials are Charles C. Maupin, the firm's vice-president for consumer finance; William L. Clark, mobile-home-division manager for the company; Jefferson E. Hopper, district manager covering Louisville, and Jack L. Madden Jr., sales manager for this district.

Maupin is based in Pittsburgh. Clark, Hopper and Madden are in Memphis, Tenn.

Deeds on file in Williamsburg show that the four Westinghouse Credit officials were involved with Goff in the purchase of a $200,000 farm in Whitley County, of which Williamsburg is the seat. The purchasers recently leased the farm to Sun Ray Coal Co. of Oneida, Tenn., which has proposed to operate a strip mine there. The lease guarantees Goff and his co-investors $500,000 over a five-year period.

Within the past several days, The Louisville Times has attempted to interview all four Westinghouse officials, but has been successful only in reaching Charles Maupin. Maupin refused to answer a reporter's questions about his dealings with Goff.

But John McClester, president of Westinghouse Credit, stated in a recent telephone interview from Pittsburgh that his company would look into ties between its officials and Goff. He learned of those ties from a Times reporter.

"Indeed, we are investigating," McClester said a few days later.

That investigation comes on the heels of the company's action involving Goff's businesses—a major repossession of Goff's mobile motor homes and campers.

In a letter dated July 4, Clark of Westinghouse notified Goff, Charles Jackson and others that Westinghouse would be selling the repossessed stock from several Goff lots.

Westinghouse has not officially estimated the value of the merchandise it has repossessed, but observers in the mobile-home business who have seen the merchandise say it is worth at least $500,000.

Clark stated in letter form that the repossessions were "pursuant to defaults under the terms and provisions of certain security agreements, guarantees, and assumption, transfer and repurchase agreements."

Questioned on the subject of the indebted-

ness of Goff's firms to Westinghouse, McClester declined to comment.

Nor would Goff discuss the Westinghouse situation. But one of his lawyers, Nold, told The Times that repossessions constituted a major factor in Goff's current financial difficulties.

Nold failed to explain whether he meant repossessions from Goff's inventory or repossessions from his customers.

Those repossessions also could hurt Goff because mobile-home dealers often have to guarantee payment to lending companies before lenders will finance retail purchases.

In a lawsuit involving Goff's Jefferson Mobile Homes, one lending company is asking for $50,000 it asserts Jefferson owes on seven mobile homes repossessed from retail customers.

But Goff's problems aren't confined to repossession actions.

A Louisville newspaper article appearing in early 1972 reported that a survey of customer complaints to several consumer-protection agencies in Louisville and Frankfort revealed that Goff was the object of more complaints than any other dealer.

Last month, officials of the consumer protection division of the Kentucky attorney general's office told Times reporters that Goff was the object of more consumer complaints than any other mobile-home dealer in the state.

Goff's customers have complained of severely defective trailers, of being denied service guaranteed by warranty and of receiving trailers that did not contain furniture and appliances specified in their sales contracts.

A complaint received by a consumer office in May seems to be rather typical.

A man wrote that his sales contract with Goff's firm had specified that he was to receive a mobile home containing a full complement of furniture and appliances.

But he said that "the only furniture in the trailer was one mattress, one badly used couch and chair. We had absolutely no appliances, not even a furnace, and even the storm door had been removed."

The man also expressed confusion over the corporate structure of Goff's enterprises. He wrote:

"The contract says 'Trailer City U.S.A.,' the check was paid to 'Jefferson Mobile Homes,' and the delivery was made by 'Godfather Mobile Homes, Inc.,' and the check was cashed by 'Jefferson Mobile Homes D/B/A Jo-Mar Mobile Homes' . . .

"So who are we doing business with?" he asked.

ABOUT 40 SUITS FILED

A number of these consumer complaints against Goff's operations have resulted in lawsuits against one or more of his companies. A check of his records in Jefferson Circuit Court last month revealed that about 40 suits have been filed against Goff's businesses by customers, finance companies and other firms with whom he has done business since 1970.

In 1972 and 1973, Goff was charged in two criminal complaints by two government agencies.

Two years ago, the Louisville and Jefferson County Sinking Fund charged Goff with failure to file a Sinking Fund tax return for the business profits of one of his mobile-home companies, Repossession Sales, Inc.

Records in Quarterly Court indicate that the charge was dropped after Goff paid an undisclosed amount of taxes.

In January of last year, the Kentucky Department of Revenue charged Goff with operating another firm, Louisville Winnebago, Inc., after the firm's sales-tax permit had been revoked.

Quarterly Court records show that charge filed away upon Goff's payment of an undisclosed amount of taxes.

Records of that case indicate Goff was represented in court by Kyle Hubbard.

It was last year that a series of court-ordered judgments against Goff's businesses began to accumulate. They resulted from lawsuits.

Rex Financial Corp., a New Jersey-based firm, won a $28,000 judgment in August 1973. The judgment stemmed from a lawsuit filed to collect a debt Rex said was owed on a finance contract with Goff's Majestic Homes, Inc.

In May, IBEC International Housing, Inc., of New York gained an agreed judgment of nearly $364,000 against Goff's Winchester Homes, Inc.

The dispute between IBEC and Winchester concerned Winchester's purchase of a plant manufacturing modular homes in Lawrenceville, Va.

The judgment was one of two major incidents that followed the purchase of the plant.

The other incident was fire in April that destroyed the plant and that has been labeled arson by the Virginia fire marshal's office.

Winchester Homes bought the Lawrenceville plant from IBEC in January for nearly $500,000.

But on April 17, IBEC sued Winchester in federal district court in Louisville claiming that Winchester had made two monthly payments for the plant with worthless checks.

In the suit, IBEC asked for about $364,000, the amount IBEC said still was owed on the plant purchase contract.

On April 18, IBEC obtained a court order in the Brunswick County (Virginia) Circuit Court causing the plant to be impounded by sheriff's officers.

Before dawn on April 19, the plant was destroyed by a fire that arson investigators maintain was purposely set.

On May 28, the suit in Louisville was settled when Winchester agreed to pay IBEC the $364,000.

However, lawyers for IBEC stated recently that their client has received nothing from Winchester.

One of those lawyers said IBEC hoped to recover at least part of the money by filing a claim on a $425,000 insurance policy.

The policy, written by the Southside Insurance Agency of Lawrenceville, names IBEC and Winchester as co-beneficiaries, according to Ben Powell, an official of Southside.

In another effort to get its money, IBEC is attempting to find and seize 17 modular homes it says were removed without authorization from the plant prior to the fire, according to an IBEC lawyer.

On June 21, company representatives located four in Greensburg, Ky., Goff's hometown. That day, IBEC obtained a court order permitting federal marshals to seize the homes.

ATTORNEY IS MUM

Like Goff, his attorney, Nold, was unwilling to talk about either the judgment or the arson investigation.

"In my mind it's a pending legal matter and should not be discussed for that reason," he said.

But Nold said he represented Winchester during the plant-purchase negotiations with IBEC last January.

Robert Carlisle, an arson investigator for the Virginia fire marshall's office, said recently that his probe of the plant fire is more than a month away from completion. Carlisle said he was in Louisville within recent weeks to question former employes of Goff.

Carlisle also has talked to another arson investigator, Detective Marvin Bray of the Jefferson County Police Department.

Bray said he talked to Carlisle about the fire in Virginia because he has been investigating two fires that damaged or destroyed eight mobile homes on lots belonging to Goff during the last six months.

Two more fires occurred in the Sun Valley Mobile Home Park. Bray said the fires destroyed two trailers owned by the park.

Officials have made no statements connecting the fires in Virginia to the Louisville fires.

"STOLEN" TRAILERS ARE FOUND

The third investigation involving Goff began last February when Jefferson County police found two trailers, which had been reported stolen through a bad-check scheme, on lots belonging to Goff's dealerships.

After the police seized the two mobile homes, Jefferson Mobile Homes filed suit to recover them. A Jefferson Circuit judge ordered them returned to Jefferson Mobile Homes until their legal ownership could be determined. The case is still pending.

The trailers turned out to be the first of three possible links between Goff and the man eventually accused of carrying out the bad-check scheme.

The police traced the trailers to Goff's lots after a Tennessee-based manufacturer complained that the trailers were illegally obtained from it with a worthless check written by a mobile-home dealer in Catlettsburg, in Eastern Kentucky's Boyd County.

The Tennessee firm was one of eight manufacturers in Tennessee and Alabama who told police they had lost mobile homes in the same manner.

At least 30 mobile homes, valued at more than $250,000, were said to be involved.

The Boyd County Sheriff's Department released the following information about the alleged scheme:

A mobile-home dealer named Layne Rader bought all the contested trailers with checks written on a bank account at the Kentucky Farmers Bank in Catlettsburg.

On paper, the bank account, established Jan. 31, contained $70,000, consisting of two checks made out to Rader or to his dealership. One of the checks to Rader was for $50,000, the other for $20,000.

Rader used the bank account as a credit reference when he negotiated to buy the trailers from the eight manufacturers.

The manufacturers did not know that payment on both checks had been stopped and that the bank account was worthless, the sheriff said. They learned only after Rader's checks to them began to bounce, the sheriff said. By then, the trailers had been delivered to Rader's lot in Catlettsburg.

Late in February, the sheriff issued an arrest warrant for Rader, charging him with passing bad checks. Shortly after that, the FBI issued a federal fugitive warrant for Rader.

Thomas W. Kitchens, agent in charge of the Federal Bureau of Investigation in Louisville, confirmed that the FBI is probing the Rader affair as part of an investigation it is conducting of interstate shipment of stolen mobile homes.

To date, Rader has not been arrested.

Investigators have been examining the following ties between Rader and Goff:

A $20,000 check from Goff, drawn on Jefferson Mobile Homes, to Rader dated Feb. 12, 1974. Elbert E. Bowe, executive vice-president of the Kentucky Farmers Bank, said the check was one of the two composing Rader's worthless $70,000 account.

A copy of Goff's check to Rader shows that payment on it was ordered stopped Feb. 15, three days after it was written.

A second check for $7,300 in February to Rader from Goff's Jefferson Mobile Homes, Inc., bank account in the Clark County State Bank in Jeffersonville, Ind.

The check was endorsed in Rader's name but later apparently deposited back in the Jefferson Mobile Homes account. A stamped notation below Rader's endorsement on the back of a check copy reads: "To the order of The Clark County State Bank, Jeffersonville, Ind. Jefferson Mobile Homes."

Goff has acknowledged that he did business with Rader this year, but he main-

tained that his association with Rader was perfectly innocent. He said that if Rader was involved in a cold-check scheme he, Goff, had known nothing about it.

Goff offered this defense in a sworn statement this spring. At the time he gave the statement, he was being questioned by lawyers representing one of the out-of-state manufacturers who wanted to know how the trailers ended up on Goff's lots.

Goff said that Rader, whom he knew slightly, offered to sell him 10 to 25 mobile homes at discount prices early last winter. Goff said he accepted the offer.

He said he wrote Rader the check for $20,000 and waited for the trailers to be delivered. When they did not arrive, he said, he stopped payment on the check.

Not long after that, Goff continued, he began receiving the trailers. Consequently, he said he gave Rader two more checks, the one for $7,300 and another for $25,000.

Both checks were written to the Jefferson Mobile Homes account.

In his statement, Goff said he gave Rader the check for $7,300 but then asked for it back after he, Goff, realized there wasn't enough money in the Jefferson Mobile Homes account to cover the check. Goff said he told Rader he would give him the $7,300 in cash drawn from personal funds.

Goff said he gave Rader the cash and that Rader endorsed the check and returned it to Goff.

One of the lawyers questioning Goff asked him how the check ended up in the Clark County Bank if it was worthless and if Goff had gotten it back, personally, from Rader.

The lawyer asked Goff why he didn't simply tear up the check if it was no good.

Goff replied that the check was deposited in the bank in order to retain a record of the transaction with Rader.

[From the Louisville Times, July 15, 1974]

LAWYER REGRETS ONLY THAT HE LOST MONEY IN VENTURES WITH GOFF

(By Richard C. Halverson and Frank W. Clifford)

Former Jefferson County Quarterly Court Judge John Nold said he has lost at least $18,000 in joint ventures with mobile-home dealer Terry Goff.

But beyond those losses, he has no regrets and no moral qualms about his five-year association with Goff, Nold said.

Goff's businesses have been experiencing serious financial setbacks in the form of massive repossession of mobile homes and in court-ordered judgments now totaling around $400,000.

In addition, Goff's operations are being probed by state and federal law-enforcement agencies in connection with three different investigations involving arson and claims of interstate fraud.

There is no indication that Nold is under investigation.

But a member of the Jefferson County police arson squad told the Times that an arson investigation is being conducted into the cause of two fires at the Sun Valley Mobile Home Park, 12517 Dixie Highway, which Nold, Goff and three other people bought in 1971. Nold and his partners bought the park in the name of Sun Valley Mobile Home Park, Inc., a corporation they formed in October 1970.

Detective Marvin Bray of the arson squad said the fires, which occurred last January and February, destroyed two mobile homes owned by the park.

Bray said there are no suspects, yet, and said investigators are certain only that one of the fires was set purposely.

In an interview last week, Nold said he was aware of the fires, but he added that he had no idea an arson investigation was under way.

"If there was arson in the mobile-home fires, I hope like hell they catch those responsible," he said.

Asked about his financial interest in the park, Nold said he couldn't remember the exact amount of his interest.

He said the corporation sold the park last month. He said he had lost more than $13,000 in the venture.

In a sworn satement made in a court case during May, Goff said Nold had a 20 per cent interest in the park.

Confirming financial difficulties at the park, the holder of a $150,000 mortgage on the park filed a foreclosure suit against Sun Valley Mobile Home Park, Inc., on June 21.

That was 11 days after Sun Valley transferred title to the park to Southern Mobile Home Park, a partnership.

Nold said he does not know who the partners in that venture are.

Nold was Goff's lawyer in the fall of 1969 when Goff made his start in the mobile home business in Jefferson County. At that time, Nold drew up the incorporation papers for Goff's Jefferson Mobile Homes, Inc.

During the next few years, records show, Nold functioned as the sole incorporator of five more businesses set up by Goff.

In all, Goff formed nearly a dozen corporations and sales outlets to sell mobile homes, motor homes and boats.

Since 1969, Nold and a law partner, Dennis Clare, have represented Goff in a majority of the 50-plus lawsuits in Jefferson Circuit Court in which Goff has been a party, most as defendant but some as plaintiff.

Yet neither Nold's business partnership nor his legal relationship with Goff prevented him from officiating in Quarterly Court traffic cases in which Goff was a defendant.

Court records reveal that Nold functioned as either a prosecutor or as a judge in three cases involving Goff. The cases came to court during the fall of 1970 and the winter and spring of 1971.

Nold served as a prosecutor during 1970 and as a judge from December 1970 until April 1974.

In the three cases, Goff was charged with hauling an over-long mobile home, with speeding and with hauling a mobile home during prohibited hours.

The first charge was filed away. On the second, Goff was ordered to attend traffic school. The third also was filed away.

During the interview last week with The Louisville Times, Nold said he could not recall ever participating as a court official in any cases in which Goff had been a defendant.

He was asked if he thought his association with Goff had ever conflicted with his responsibilities as a judge.

"Absolutely not," he replied.

In April 1974, when Goff brought in Charles W. Jackson from Alabama to either manage or take over his operations, Nold also drafted the articles of incorporation for Godfather Homes, Inc., with Jackson as president.

Jackson was and is under indictment in Alabama for a variety of felony charges, including passing worthless checks, false swearing and removing mortgaged property belonging to others.

Nold said he met Jackson when he was working for Goff. He said he was unaware of the criminal charges outstanding against Jackson when he took the legal steps necessary for Jackson to begin doing business in Kentucky as Godfather Homes.

The American Bar Association's Code of Judicial Conduct, however, does take an unfavorable view of judges who engage in business with people who appear before them in court.

A section of the code's Canon 5 reads: "A judge should refrain from financial and business dealings that tend to . . . involve him in frequent transactions with lawyers or persons likely to come before the court on which he serves."

The Code of Judicial Conduct does not have the force of law, and local judges cannot be required to answer to it.

Nold acknowledged that his business association with Goff was not limited to his interest in Sun Valley Mobile Homes Park.

He said that in late 1972 or early 1973 he became involved with Goff and others in two oil and gas leases near Williamsburg, in Southeastern Kentucky. He stated that he bought "fractional" parts of working interests in the leases.

Nold said he has lost about $5,000 investing in the leases.

He added that Dennis Clare also bought a small portion of a working interest in one of the leases. Clare acknowledged the interest and said he acquired it by buying a part of Nold's share.

[From the Courier-Journal, July 11, 1974]

DATA LINKS EX-PROSECUTOR WITH PRIVATE CLIENT CASES

(By Stan Macdonald)

Jefferson County Quarterly Court records indicate that John A. Nold, while acting as a prosecutor and as a trial commissioner, handled cases of a man who had been his private client and with whom he had business connections.

The man is Terry Goff. He has operated mobile-home businesses in the Louisville area for several years and his operations have been and are being investigated by the Kentucky attorney general's office and Ft. Knox officials.

Court records indicate that Nold handled as a court official three of Goff's cases in 1970 and 1971, with two of them involving charges related to the mobile-home business. Two of the charges were filed away and the third was amended to a lesser offense.

The Courier-Journal also learned that Jefferson County police charged Goff with two driving-related offenses in late 1971. But this reporter couldn't find any record of the cases at Quarterly Court.

Nold served in Quarterly Court's traffic division in 1970 and then was named by County Judge Todd Hollenbach to replace Kyle T. Hubberd as trial commissioner on Dec. 30, 1970. Hubbard, the Democratic candidate for the U.S. House of Representatives from the 4th District, was a law partner of Nold from mid-1972 until January of this year.

Nold, who resigned from the court earlier this year, said last night he didn't recall handling any of Goff's cases in Quarterly Court. He also said in his opinion he "never did anything wrong" while serving as a court official.

Hubbard, who acted as trial commissioner for two of the three Goff cases, also said he didn't remember them. He said Nold removed himself from some cases, but he didn't know if this hapepned when Goff came before the court. Hubbard said the only time he could recall representing Goff was in a civil case earlier this year. Goff could not be reached for comment.

Canons of legal and judicial ethics state that court officials should avoid conflicts of interest and their conduct should be free from impropriety and the appearance of impropriety.

Here's a look at the cases involving Goff:

In September 1970 he was cited for pulling an overlength load on a roadway. Later that month Goff's charge was filed away, and Nold was listed as having been the prosecutor for the cases that day, according to court records.

On Dec. 29, 1970, with Nold again listed as prosecutor for that court day, a speeding

charge against Goff resulted in his being referred to a traffic school. For Feb. 2, 1971, the court records show that Goff attended traffic school and his case was filed away, and Nold was listed as trial commissioner.

Nold also was listed as trial commissioner in the traffic division on April 1, 1971, when Goff's charge of pulling a mobile home during prohibited hours was amended to disorderly conduct and Goff was placed on his own $50 bond for six months.

Nold acted as Goff's private attorney during the approximate times of those Quarterly Court cases.

Jefferson Mobile Homes, Inc., was incorporated in 1969 with Goff identified as the registered agent, incorporator and a shareholder. The articles of incorporation were prepared by Nold. A civil suit was filed in 1970 against Jefferson Mobile Homes and court papers identified Goff as president of the company. Nold was identified in the suit's papers as the attorney for the defendants.

Nold also was Goff's attorney in a civil suit filed in May 1971.

Nold prepared a merger agreement, officially filed in October, 1970, where Repossession Sales, Inc., merged with Jefferson Mobile Homes, Inc. Goff was identified as one of the directors of the "surviving corporation."

More corporations were formed. The articles of incorporation for Louisville Winnebago, Inc., were prepared by Nold, recorded in February 1972, and named Nold as the incorporator and Goff as the corporation's registered agent. Louisville Chrysler Marine, Inc. was formed in the same fashion in 1973.

Nold said he has held a business interest with Goff and several other investors in Sun Valley Mobile Home Park, Inc. Sun Valley was incorporated in October 1970 and Nold was named as the incorporator and a shareholder.

Numerous complaints have been lodged with the Better Business Bureau in Louisville and with the Kentucky attorney general's office in connection with purchases made at Goff's mobile home businesses. Complaints by soldiers in the area led to a hearing over Goff's businesses before an Armed Forces Disciplinary Control Board at Ft. Knox, Ky., but no action was taken after Goff rectified the complaints.

FAREWELL TO OUR FRIEND AND COLLEAGUE JOHN J. ROONEY

HON. BERTRAM L. PODELL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 18, 1974

Mr. PODELL. Mr. Speaker, it is my great pleasure to pay honor to our respected colleague, the Honorable JOHN J. ROONEY, who has devotedly served Congress, the Nation, and the interests of the 14th Congressional District of Brooklyn, N.Y., for 30 years.

Mr. ROONEY has reached the difficult decision to retire from this House at the end of this 93d Congress, which he loves dearly and serves so well. The Congressman, who himself is the offspring of immigrant parents, has represented an area of our Nation which is a polyglot of nationalities, with long hours of endless dedication while pursuing goals which he firmly believes in.

It is noteworthy that this legislative leader, who has always been the stalwart patriot and protector of the citizens' pocketbook, was elected to office on June 6, 1944, the date on which our Armed Forces landed on the beaches of Normandy and began to turn back the Nazi menace. He is chairman of the Subcommittee on State, Justice, Commerce, and Judiciary of the House Committee on Appropriations, where his leadership has guided the committee through its many important functions.

Upon his retirement, I, as a member of the New York delegation and a fellow Brooklyn Congressman, will surely miss his able advice and leadership. His friendship and counsel on the floor of the House and in its conference rooms will soon be a memory of the past. I am grateful to have the privilege to serve as a public official with such a memorable and outstanding Member of this House.

WAR FILM'S A MIND-BLOWING EXPERIENCE

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 18, 1974

Mr. BROWN of California. Mr. Speaker, although our official military role in South Vietnam has ended, our political and economic involvement continues unabated. Recent figures show that the United States pays 85 percent of the South Vietnamese budget. But in spite of the considerable American presence in South Vietnam, news coverage from that country is steadily decreasing.

The tremendous disinterest in our present role in Vietnam is excelled only by the general apathy about the past. One of the few attempts to analyze the American role in Indochina during the past 10 years is a documentary film, "Hearts and Minds," financed by Columbia Pictures and directed by Peter Davis, who also directed the much-praised documentary "The Selling of the Pentagon." At the recent Cannes Festival, "Hearts and Minds" was widely admired for its objectivity, candor, and general excellence. Yet Columbia Pictures may not release the film in the United States because of certain financial difficulties the company is experiencing. The film and the difficulties in obtaining its release are described in the following article by Rex Reed:

[From the Rocky Mountain News "Now," June 23, 1974]

WAR FILM'S A MIND-BLOWING EXPERIENCE

(By Rex Reed)

The best film at the recent Cannes Festival was a documentary about the Vietnam war called "Hearts and Minds." It was a brutal, mind-blowing experience that shattered every American who saw it, yet the tragedy is that Americans at home who might benefit most from it might never get the chance to see it.

There are injustices every day that fill the newspapers with sad, depressing copy. There are wrongs in the world that make me heavy-hearted with sadness. But the problems that face a magnificent film like "Hearts and Minds" are too much for me to bear. My conscience forces me to tell you about them, in the hope that you will care enough about the truth to listen.

"Hearts and Minds" was financed by Columbia Pictures and produced by Bert Schneider, a partner in BBS Productions, the company that created "Easy Rider," "The Last Picture Show" and "Five Easy Pieces."

BBS is a company dedicated to motion pictures concerned with the quality of American life. "Hearts and Minds," which might well be this company's best and most courageous film to date, was directed by the talented, 37-year-old documentary filmmaker, Peter Davis, whose CBS–TV special, "The Selling of the Pentagon," won mountains of prizes and even led to reforms in some Pentagon public relations practices.

Now a series of complicated problems is plaguing the film that might make it impossible to obtain a release in the United States. While I was in Cannes, I met with Peter Davis over tea and he explained what happened.

"Columbia financed it," he said, "but they will not have anything to do with its appearance in Cannes and now they are reluctant to show it in America. There are several reasons for this cowardice. Columbia is a corporate structure in a great deal of financial debt right now. They are in the hands of several banks to which they pay $14 million a year just to repay this debt.

"Therefore, they are worried about the political implications of the film and also about the possibility that it might have a limited audience and they don't want to lose money. We can't sell it to anyone else because Columbia still owns it. They could just drop it in a hole somewhere and kill it off that way, but that's the worst thing that could happen to it."

Columbia Pictures spokesmen, on the other hand, say they are not holding the film back because it's controversial. The real reason they haven't expedited a hurried release, they say, is that BBS Productions is suing the studio for "at least $250,000" for unpaid royalties on "The Last Picture Show" and "Five Easy Pieces." Whatever the reasons, "Hearts and Minds" has not yet been shown to the American people and that is a crime. It must be seen.

This is the only film I have ever seen that sweeps away the gauze surrounding Vietnam and tells the truth. For 10 years, the American public was bombarded daily with body counts from this obscene war as if the number of dead men and women on each side were scores in an endless ballgame. TV news programs covered the holocaust of battle in living and dying color. Some Americans were occasionally reassured by what they saw, others were horrified, almost everyone was confused. Many said it was the greatest tragedy to hit America since the Civil War. This time our land was not burned, though our soldiers were killed, maimed and imprisoned for reasons that are still not clear in a far-off land about which most people knew nothing and couldn't care less. "Hearts and Minds" is a film about why the United States went to Vietnam, what we did there and what doing it did to us. Peter Davis says: It's just an attempt to understand what we have done and what we have become.

That's why there are no Bella Abzugs or Jane Fondas or Tom Haydens or Peace Corps workers in it. Davis was more interested in showing the people who made the war and were actively involved in it rather than the people who opposed it. "My object was to find out why it happened," he says. And find out he did.

Here is Lt. George Coker, from Linden, N.J., forcing his pathetic brainwashed cliches on innocent children in classrooms. Here are American soldiers, telling his cameras: "Almost everyone has blown off firecrackers. The excitement of those explosives hitting their targets is deeply satisfying." Cut to children with their limbs blown off, wounded mothers weeping for their dead infants, a homeless

farmer pointing to a pile of rubble where his kitchen used to be, while the Vietnamese language is translated for Davis through walkie-talkies. Cut to an innocent soldier, wiping away tears, saying: "It was strictly business. We had a job to do and we did it. We never heard any screams."

The exploitation never ends. First we invade the country because the Pentagon tells us to, then we bomb everything in sight, then we take pictures of it. Davis gets it all down for posterity—the Saigon coffin maker who turns out 900 children's-size coffins per week for the babies who die of gas poisoning from American bombs, the Army deserters who ran away after eyewitnessing political prisoners being pushed out of American helicopters, the Vietnam war profiteers who raced back to their own country after the Paris peace talks to prepare for peace by milking their own people dry.

And there is the other side of the coin: the tragedy of our own brainwashed boys, bewildered and half-dead, trying to justify their part in the slaughter, and the families of dead soldiers, trying to justify their kids' own funerals. Davis traveled with a camera crew for two years behind enemy lines, interviewing not only the men who were there but the leaders and policymakers who formulated the strategies and decisions in Washington.

There is one heartbreaking interview with Daniel Ellsberg, the former Defense Department and Rand Corp. aide, that tells more about Vietnam than any of Richard Nixon's incoherent pep talks. There is another interview with General Westmoreland in which he explains that "life is plentiful, life is cheap to those people. That is the philosophy of the Orient. You have to realize that an individual life there, isn't as important as an individual life in America."

There is one horrifying scene in a Vietnamese brothel in which two GI Joes proudly display the wounds they have inflicted on Vietnamese women, then lie back while the girls satisfy their sexual appetites as they tell the camera: "Boy, if our girl friends back home could see us now!"

Quick cut to film clips of old Bob Hope movies in which Hope gathers two Oriental cheescakes to his bosom and winks: "Come here, you slanty-eyed chinks!" Quick cut to the same Bob Hope at President Nixon's welcome-home dinner for the returning POWs, getting a big laugh on his joke: There's nothing like a Captive audience." The film is filled with ironies like that, and nothing has been set-up or dramatized. It's an unforgettable movie that tells it like it is and like it was for all time.

The saddest thing about the film is the way it shows everyday Americans right now who don't feel guilty about the war, who don't think about it, who don't even know where Vietnam is or what we were doing there in the first place. One truckdriver says: "I think we were fighting for the North Vietnamese, weren't we?"

Then there are the stupid meatheads treating the Vietnamese like sub-humans, calling them "gooks," and eagerly joining in the systematic destruction of their country and their lives.

"What does Vietnam look like?" asks a child in a classroom lecture. "If it wasn't for the people, it'd be pretty." answers the soldier addressing the class. Five government administrations have lied to the American people and the fact that we were so easy to dupe is nothing to be proud of. We've been lied to long enough. The shots in "Hearts and Minds" of the 1966 TET offensives, when U.S. soldiers shot Vietnam civilians through the head while their arms were tied behind their backs, are real horrors. The things in this movie are not action sequences from a John Wayne movie. And the agonizing truth will not go away just because you turn off the 6 o'clock news.

Americans are patriotic. They are also violent. Both pride and guilt are elements of the American character dealt with here. A lot of people don't seem to mind that President Nixon's favorite movie is "Patton." They don't seem to see the significance in this. These are the Americans who think Vietnam is a thing of the past who want Watergate to be over and forgotten.

Apathy is their way of life, but there is no place for apathy in the movie industry. That is why I hope Peter Davis resolves his differences with Columbia Picture, so "Hearts and Minds" can at last be shown. It must be shown. Rarely has so much truth and so much power been captured in the art of film. The people who made this film owe it to the citizens of this country.

"America," concludes Peter Davis, "has evolved a long way from the revolutionary society that overthrew the British in the 18th century. Especially now that we are approaching the Bicentennial and congratulating each other about being great freedom fighters and revolutionaries, we ought to understand what we have become."

That is what "Hearts and Minds" is about. And that is why the American people must see it soon.

Mr. Speaker, I urge Columbia Pictures to release its film "Hearts and Minds" for viewing in the United States so that Americans may have the opportunity to consider the moral responsibility we all bear for American actions in Vietnam.

THE BICENTENNIAL CELEBRATION

HON. ROBERT O. TIERNAN

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 18, 1974

Mr. TIERNAN. Mr. Speaker, as the Bicentennial celebration draws closer, Congress still has not taken the step necessary to see that each and every State has a properly designated and established historical site upon which to focus its Bicentennial energies.

The importance of a unified effort was never more amply demonstrated than during America's Revolutionary years. Now we have a chance in 1974 to capture the spirit of that unity for our Bicentennial celebration by assisting each State with the establishment of a meetinghouse for the purpose of planning and celebrating the Bicentennial. The tool by which this can be done is H.R. 12893, the Meetinghouse Preservation Act.

This act would provide grants to the States for the purchase, renovation, maintenance, staffing, and operation of a historically significant site as a meetinghouse for Bicentennial activities. The meetinghouse would serve as a site for the dual purpose of preserving our cultural, social, historical, ethnic, and natural heritage, and planning the future quality of America's life. By restoring a continuity with America's past and providing an opportunity to plan America's future, the meetinghouse would give citizens a chance to participate fully in a celebration of ideas and attitudes which have been the wellspring of this Nation.

MESS OF POTASH—EXIMBANK HAS JUST MADE ANOTHER BAD DEAL

HON. JOHN H. ROUSSELOT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 18, 1974

Mr. ROUSSELOT. Mr. Speaker, yesterday the International Trade Subcommittee of the House Banking and Currency Committee approved a bill for full committee action extending the life of the Export-Import Bank for 4 years, and increasing its lending authority to $25 billion.

This legislation does not adequately deal with the concerns expressed by the American people with regard to the Bank's transactions. It does not give Congress oversight responsibility on the Bank's transactions with Communist countries, but rather only requires the Bank to give prior notification to Congress of those transactions over $50 million, and no vehicle is provided for congressional action to approve or disapprove of the proposal.

Legislation introduced by Congressman JOHN DENT and myself, H.R. 14302, does specifically include in its provisions a requirement that prior congressional approval is necessary in order for any of the Bank's proposed transactions with Communist countries to proceed.

To demonstrate my point that a notification procedure is not adequate, and that Congress must take action to oversee the Bank's transactions with Communist countries, I would like to bring to the attention of my colleagues an article which appeared in Barron's on June 10, 1974. The article is entitled: "Mess of Potash—Eximbank Has Just Made Another Bad Deal," and it discusses several particulars about Eximbank's recent $180 million loan to the Soviet Union to build fertilizer plants. It is faulty legislation which ignores the fact that congressional oversight is needed to deal with irregularities, such as are described in the Barron's article, which can occur in other transactions regardless of whether they are over or under $50 million.

The article brings out that—

While the Soviets say they will use the SpA (super phospheric acid) as fertilizer, it also has clear-cut military applications—in incendiary bombs, for example, and tracer bullets.

In addition, it states—

That Eximbank has been unable to obtain the financial information it requested concerning the borrower's ability to repay the loan.

The article goes on to discuss an April 10, 1974, loan memorandum to the Board of Directors of Eximbank of which Barron's has obtained a copy. It reveals that Franklin National Bank is included in the syndicate which will provide private financing. This, of course, is the same Franklin National Bank whose financial difficulties have been widely publicized in recent months, and the same bank that has been under close watch by the Federal Reserve Board.

In conclusion, the article points out that—

Now that final approval has been given by the Bank, the only possible recourse lies with Congress. That body could hold up disbursement on grounds that the agency has exceeded its authority by making the commitment without the required reasonable assurance of repayment, and without review by the NAC (National Advisory Council of International Monetary and Financial Planning) of the venture as it existed, when the loan was made. Another possible ground could be that the action was contrary to the intent of Congress.

I believe, Mr. Speaker, the only alternative is to enact the provisions in our bill, H.R. 14302. It is the vehicle to effectively bring all of the details and possible adverse effects of the Banks' transactions under the scrutiny of Congress.

The full text of the Barron's article follows, and I urge all my colleagues to read it carefully:

[From Barron's, June 10, 1974]

MESS OF POTASH—EXIMBANK HAS JUST MADE ANOTHER BAD DEAL

(By Shirley Scheibla)

WASHINGTON.—There is a lot more involved in the Export-Import Bank's (Eximbank's) $180 million loan to the Soviet Union at 6% than the agency's announcement on May 21 revealed.

The deal will mean strip mining 80 million tons of phosphate from Occidental Petroleum Corp.'s reserves in Florida. The firm will convert this to super phosphoric acid (SpA) and ship it to Russia. While the Soviets say they will use the SpA as fertilizer, it also has clearcut military applications—in incendiary bombs, for example, and tracer bullets.

In return for the SpA, the U.S.S.R. has agreed to ship the U.S. ammonia, urea and potash fertilizers. However, if prices decline below certain floors, there is no guarantee that this country will receive them. Without such sales, Russia may lack the foreign exchange to repay Eximbank. The agency has been unable to obtain the financial information it requested concerning the borrower's ability to repay the loan.

WON'T BUY STEEL

The $180 million is to help pay for a large complex to manufacture the fertilizers. Other government agencies approved the credit on the grounds that it would generate large Russian purchases in this country, including steel for a 1,200-mile pipeline. Now Russia no longer intends to buy the steel from the U.S., and other prospective purchases have declined substantially.

The day before voting final approval of the loan, Eximbank's board of directors considered it without acting. Following that meeting, Karnig Ekizian, project officer for Eximbank, told Barron's, "The project still needs work. It is a very fluid transaction, including the type of imports the Soviets will make from the U.S." Other Eximbank officials said privately that they hoped the agency would reject the controversial loan because they feared it would jeopardize two agency requests now pending in Congress. One is to extend Eximbank's life beyond the end of June. The other is to boost its authorization from $20 billion to $30 billion.

Agency officials also were concerned about a ruling by the U.S. Comptroller General that before Eximbank can make loans to a Communist country, the President must rule that each individual transaction is in the national interest. President Nixon had made only a blanket determination that it is in the national interest for Eximbank to finance U.S. exports to the Soviet Union.

MADE NECESSARY FINDING

When Eximbank's board failed to approve the loan on May 20, President Nixon fired off a letter to William J. Casey, president and chairman. While neither the White House nor Eximbank will release the letter in full, Rosemary A. Mazon, Eximbank's senior vice president for public affairs and export expansion, said it confirmed that the loan would be in the national interest.

On May 21 the board approved the loan. The timing was fortuitious. It coincided with the visit to President Nixon by a Soviet "parliamentary delegation," including leading Russian journalists. Other Washington visitors at the time included Mikhail R. Kutzmin, Soviet Acting Minister of Foreign Trade. Following a conference with him on May 22, Treasury Secretary William E. Simon announced that the U.S. was determined to continue to make Eximbank loans to Russia. Next day Leonid I. Brezhnev of the Soviet Union sent Mr. Nixon a private message; the White House subsequently said he will visit Moscow in June as planned.

Barron's has obtained a copy of a Loan Memorandum to the Board of Directors (of Eximbank) dated April 10, 1974, which says, in part: "The private financing will be provided by a syndicate headed by Bank of America. Other members include Manufacturers Hanover, Chemical Bank, Morgan Guaranty, Franklin National Bank, Western Pennsylvania, Bank of New York, National Bank of Detroit, First Western (Cal.), Industrial National (R.I.)." (The Franklin National Bank on the list is the same one the financial difficulties of which are making headlines.)

PRELIMINARY COMMITMENT

The banks made their arrangements after Eximbank issued a preliminary commitment on June 4, 1973, for the $180 million at 6%, provided Russia requested it by May 14, 1974. On January 18, 1974, the Bank of Foreign Trade of the U.S.S.R. telexed its application to Eximbank.

When the preliminary commitment was issued, Donald Bostwick was Executive Vice President of Eximbank. He now is Vice President for Marketing for Chemical Construction Co., which is negotiating with Russia for construction of the fertilizer plants. He said that so far no contracts have been let. Mr. Bostwick resigned from Eximbank last September, at the same time Henry Kearns (Barron's, May 20) left his post as the agency's head.

The Loan Memorandum goes on: "For 20 years, beginning with 1978, Oxy will be selling one million tons a year of super phosphoric acid (SpA) to the Soviets in return for 1.5 million tons of ammonia, one to 1.5 million tons of urea and one million tons of potash per year."

Occidental Petroleum will buy an additional 1.6 million tons of ammonia fertilizer annually for 12 years, starting in 1978, "to help the Soviets generate adequate foreign exchange to pay for the plants and equipment" to produce the fertilizer. But the Russian obligation for such exports ends if prices fall below floor prices of $42.50 a ton for ammonia, $50 a ton for potash and $57.50 a ton for urea.

The Memorandum said Russia will gain hard currency windfalls from sharp increases in the prices of gold and crude oil, and it valued its gold reserves at more than $10 billion. But it warned, "The adequacy of the foregoing evaluation is limited by the absence of official information in the key areas of reserves, debt, debt servicing and balance of payments which Eximbank has requested but not yet received from the U.S.S.R. Government sources."

Last February, Senator Clifford P. Case (R., N.J.) told the Senate: "A working paper prepared by the Commerce Department states, 'Henry Kearns of Eximbank has indicated to the Soviets that unless the Soviet Union is forthcoming with the financial information meeting Eximbank criteria, Eximbank would not extend credit beyond a certain amount. This ceiling is about $500 million.' . . . What justification was there for any amounts less than this to be lent without the necessary financial information being submitted?"

The April 10 Memorandum said, "If the U.S.S.R. requests additional Eximbank credits, it will be even more important to obtain the information which Eximbank has requested."

As for the fertilizer complex, it said procurement in the U.S. could exceed $600 million if the Soviets adhere to their initial specifications and capacity requirements. It added that Bechtel Corp. will construct a 1,200-mile pipeline to transport the ammonia and will buy the steel pipe from the U.S.

In Congressional testimony on April 30, Eximbank President William J. Casey said that the National Advisory Council on International Monetary and Financial Planning (NAC) thoroughly reviews all individual transactions where Eximbank's exposure exceeds $30 million.

The Council approved the $180 million loan on the basis of the April 10 Memorandum, however, and, so far as can be determined, subsequent memoranda indicating major changes in the project were not submitted to it. Nevertheless, Barron's has learned that a revised memorandum prepared for Eximbank board indicated that the steel no longer would come from the U.S.

On April 26, Armand Hammer, chairman of Occidental Petroleum, told the Senate International Finance Subcommittee: "The Soviets have recently told us that the costs for the ammonia and urea plants as well as the other equipment have escalated so much that they will probably buy the ammonia and urea plants in Japan. The Baltic and Black Sea terminals, storage tanks, pipeline equipment and railroad tank cars have also escalated so much that their $400 million credit in the U.S. may be expended on these alone. Therefore, they have sought an additional credit from West Germany, and it is their intention to buy the pipe in that country."

Eximbank's announcement of the loan said in part: "The materials purchased from American companies with the assistance of this financing will be used in the construction of ammonia plants, storage facilities, pumping stations, railroad tank cars and a 1,200-mile pipeline in the U.S.S.R."

APPARENT CONFLICT

Asked to explain the apparent conflict, John E. Corette III, Eximbank's general counsel, said, "Our understanding is that equipment for the plants and certain equipment for the pipeline, but not the steel, will be bought in the U.S."

Neither the April 10 Memorandum nor the announcement of the loan pointed out that export licenses from the Commerce Department may be necessary for some U.S. items involved in the venture. Nevertheless, in a letter dated April 18 to Florida Secretary of State Richard Stone, A. P. Gates, president and chief executive officer of Hooker Chemical Corp. (a subsidiary of Oxy Pete), stated, "Certain export licenses may be necessary from the Department of Commerce. . . ."

Regarding phosphate, the April 10 Memorandum said: "To manufacture the required SpA, Oxy will be extracting phosphate rock from its Florida mines. Phosphate is the tenth most abundant element in the world. The U.S. has the world's second most exten-

sive reserves of phosphate rock. However, over-capacity conditions in the U.S. over the past seven years resulted in no expansion of rock mine capacity until demand caught up with supply. Consequently, starting with 1972, and until now, phosphate rock has been in short supply and is estimated to stay short until about 1978."

ONE-THIRD EXPECTED

"Despite the recent shortages, the U.S. has been and still is a net exporter of phosphate rock. During 1973, one third of our 42 million metric ton production was exported. With domestic shortages, this proportion will decrease only to an estimated one fourth by 1976. However, it is estimated that by 1978, the first year of rock exports to the Soviet Union, the presently announced surge in expansion of mining capacity will be in operation, resulting in balanced supply and demand conditions. Oxy estimates that its reserves are adequate to supply its normal clients in addition to the Soviets."

On April 26, Florida Secretary of State Stone told the Senate International Finance Subcommittee that three fourths of the domestic and nearly one fourth of the world's supply of phosphate are mined in Florida. While placing domestic reserves at 17.3 billion tons, he said, "Throughout this country there is a 12% to 15% shortage now, and phosphate reserves in inventory for finished goods are approximately 40% below normal. Is supplying Russia with 80 million tons of phosphate going to aggravate the current phosphate shortage? I think it may."

TRACER BULLETS

Secretary Stone testified that superphosphoric acid can be converted chemically to phosphorus, which can be used in the making of pyrotechnic safety matches, incendiary shells, smoke bombs and tracer bullets. Moreover, white phosphorus reacts with sodium hydroxide to form phosphine, a colorless, very poisonous gas.

Mr. Stone also told the subcommittee that Eximbank gave preliminary approval to the loan before agreement on all the terms. "It seems to me," he declared, "that no commitment, preliminary or otherwise, should issue without the full terms of the agreement being made public."

Barron's has learned that Eximbank considers the April 10 Memorandum a confidential and internal document and that it has launched an investigation to find out how we obtained it. It is not marked confidential.

Now that Eximbank has given its final approval for the loan, the only possible recourse lies with Congress. That body could hold up disbursement on grounds that the agency has exceeded its authority by making the commitment without the required reasonable assurance of repayment, and without review by the NAC of the venture as it existed when the loan was made. Another possible ground could be that the action was contrary to the intent of Congress.

According to Senator Richard S. Schweiker (R., Pa.): "A fundamental issue is whether the vast credits of the taxpayers of the U.S. have to be extended to the Soviet Union despite the wishes of the House of Representatives and what I believe are clearly the wishes of the Senate."

WEED AND AUBURN NAMED BICENTENNIAL COMMUNITIES

HON. HAROLD T. JOHNSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 18, 1974

Mr. JOHNSON of California. Mr. Speaker, it is with great pleasure that I extend congratulations to two communities in the Second Congressional District of California—Weed and Auburn—upon their receipt of the designation "Bicentennial Community." Only a few cities and towns in the Nation have qualified for this honor, and these two communities are among the first in California.

As part of our celebration of the Nation's 200th anniversary, each American community is encouraged to make their own plans for an appropriate celebration at the local level. Three theme categories have been established by the American Revolution Bicentennial Administration, the parent Federal organization designated to coordinate national, State, and local observances of this important date. The three themes are: Heritage '76, Horizons '76, and Festival U.S.A.

Each community to receive this special designation, is required to establish a program of activities involving one of the three themes, and to create a Bicentennial Committee within the community. The committee, as well as the programs it administers, must be broad based and must encompass all aspects of the community.

Being named a "Bicentennial Community" entitles the community to fly the official American Revolution Bicentennial flag and to use the official ARBA symbol on its stationery and other official papers.

CITY OF WEED

The city of Weed has made plans for the construction of a memorial fountain in the community. The entire project would be built by volunteers and would be financed totally by donations from local citizens. The beautiful new fountain will not only enhance the city, but also honor the founder of the community, Abner Weed.

In addition to the fountain, the committee hopes to develop a campaign to cleanup and beautify various parts of the town and to create programs emphasizing America's historical heritage for the Weed public schools and the College of the Siskiyous.

The Weed Bicentennial Committee under the guidance of Mrs. Mary C. Chaney, its chairman, and Mayor Jack Kersey have worked diligently to obtain this honor. Weed is one of the smallest cities in California to have received this special award, and the first in Siskiyou County. Other members of the Bicentennial Committee are: Merilee Franklin, Harold Chaney, Guy Marschner, Mary Mazzei, Josie Scalise, Patrick Houge, Harold Orcutt, Ellen Tupper, and Dottie Nystrom.

The formal presentation of the ARBA flag was held in a moving ceremony in Weed on June 19. The flag was presented by Bill Richards, a member of the State American Revolution Bicentennial Commission. Also participating in the ceremony were Mayor Kersey, Mrs. Chaney, Karl Zwanziger, Roger Zanziger, Mrs. Leland Stone, Father Ed Mello, and Rev. Henry Gaines. Various young people representing the Boy Scouts, Girl Scouts, Cub Scouts, Brownies, 4–H, and youth baseball also shared in the ceremonial duties.

CITY OF AUBURN

The city of Auburn was named a "Bicentennial Community" on July 17 by the American Revolution Bicentennial Administration. The Auburn Bicentennial Committee has developed extensive plans for that community's celebration of our 200th anniversary.

Four projects lead the list of Auburn's programs for the Bicentennial festivities which fall into all three of the theme categories. A new historic museum will be constructed and dedicated in 1976. A winery, a blacksmith's shop, stables, and a home will be restored to their appearance during the days of the California gold rush. Six acres overlooking the majestic Sierra-Nevada Mountains and the scenic American River Canyon, which the pioneers crossed and in which gold miners labored, will be designated as Independence Park. Finally, special flag tributes will become a permanent part of annual festivities on Flag Day and Independence Day.

These are just the major events. As the Nation began with 13 colonies, Auburn has scheduled 13 special events. As the Nation's flag has 50 stars, Auburn's program involves 50 organizations in 50 different projects, assisted by 50 volunteers. The overall theme of the Auburn celebration is "From a Golden Past—To a Golden Future."

The Auburn Bicentennial Committee, chaired by Wendell Robie, has spent many long hours developing this comprehensive program of activity. He has been helped in this effort by Mayor Louis Clay and the members of the committee: Ray Shull, Stephen Brown, Bill Richards, Jon Lardner, and Bill White.

The actions of both of these communities show dedicated and deliberate planning leading to total community participation in our Nation's 200th birthday. I salute Weed and Auburn on their outstanding accomplishments and hope that their examples will serve as an inspiration for other California communities.

IMPACT AID FOR NEW YORK

HON. JOHN M. MURPHY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 18, 1974

Mr. MURPHY of New York. Mr. Speaker, on June 28, 1974, a preferential motion was offered to instruct the managers on the part of the House on the disagreeing votes of the two Houses on the bill H.R. 69 to insist on the provisions of title IV of the House bill with respect to Federal assistance provided to school districts enrolling children whose parents work or live on Federal property.

On rollcall vote No. 351 I voted "aye," which, had the amendment passed, would have proved detrimental to the State of New York. Therefore, I wish to state in the public RECORD, that my position is in favor of increased impact aid to New York State and that my vote should have been registered as "nay."

POMPANO BEACH "TIP" PROGRAM

HON. PAUL G. ROGERS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 18, 1974

Mr. ROGERS. Mr. Speaker, since State, local, and the Federal Governments began to respond to the dramatic increase in drug use which this country experienced in the past several years, one of the predominant facts which has emerged is this: Government agencies cannot alone successfully conduct the fight against drug abuse. Involvement by private citizens and citizens' groups is necessary for a successful effort in fighting this problem.

One of the areas in which this is especially true is the problem of the "pusher" of hard narcotics. This is the individual who goes into our communities and schools, and generates demand for hard narcotics. Drug abuse has been found to be a very social phenomenon—that is, abuse seems to spread through the social patterns of a community, in a manner not unlike an epidemic. The pusher imposes himself on this social framework, and uses his persuasive and suggestive skills to encourage new patterns of abuse among groups which otherwise might not come in contact with the drug.

For these reasons, the pusher is not only an especially important, but also a particularly effective point at which to attack drug abuse in a given community. And for these reasons, the Greater Pompano Beach, Fla., Chamber of Commerce decided that an operation against pushers of hard narcotics should be the vehicle for its efforts in this area.

Finding the educational and therapeutic efforts in the community to be already well organized and developed the Pompano Chamber decided that the enforcement field, and in particular the activities of local pushers, should be the focus of its efforts. The chamber therefore decided to initiate a "TIP Line" program similar to that originated by the Tampa, Fla., Chamber of Commerce in 1971.

The TIP program is designed to provide law enforcement officers with leads on hard-drug pushers operating in the area. Persons who provide information to volunteer telephone workers remain anonymous, and through the use of a code name, are anonymously awarded $100 to $500 for any tip which results in an arrest and conviction. The tip is relayed to the appropriate police agency, which then conducts a full investigation. A tip cannot be used as the basis for an arrest—subsequent arrests are based on full investigations by police.

The results of the program, founded in April 1972, have been tremendously encouraging. The response has been at a rate of two tips per day, hundreds of calls since the program's inception. Pompano Beach police report that 96 investigations were initiated by TIP calls in the past 18 months resulting in 56 arrests. About 75 percent of the arrests result in convictions. Through a widespread public information campaign on all the local media, the program has been kept in the public eye, and has acted as a deterent, especially among young drug users.

The program is completely funded by private contributions from the community.

Mr. Speaker, I am very pleased to report the success of this project. I believe it represents an answer to one of the aspects of the drug abuse problem, which can be implemented in any community where the community has the necessary desire and determintion to help combat one of our more virulent social problems. I congratulate the Greater Pompano Beach Chamber of Commerce for their successful efforts, and all who have been involved in the project. I would strongly recommend that community leaders across the country consider initiating a similiar program in their own locality. The results could be most gratifying.

RIO BLANCO TRITIUM LEVEL INCREASES

HON. TENO RONCALIO

OF WYOMING

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 18, 1974

Mr. RONCALIO of Wyoming. Mr. Speaker, I know that many of my colleagues will find the following article from the Glenwood, Colo., Post of interest. We have read continuing reports of difficulties and short expectations from the third nuclear stimulation experiment under the AEC's Plowshare program.

Rio Blanco has failed to display any reason to continue pouring money into development of nuclear stimulation technology development. The following article, in fact, gives credibility to concerns expressed in the House about possible problems which could result if nuclear stimulation efforts are pursued.

The article follows:

RIO BLANCO TRITIUM LEVEL INCREASES

MEEKER, COLO.—Sponsors of Project Rio Blanco say levels of tritium, or radioactive water, resulting from the underground nuclear blast are higher than expected.

The Colorado Water Quality Control Commission has been notified that the project sponsors will seek a permit to increase both the volume of radioactive water and the amount of radiation to be pumped underground for disposal.

A public hearing on the matter will be held but no date has been set, a spokesman for the Colorado Health Department said Wednesday.

Continental Oil Co., CER Genonuclear Corp. and Equity Oil Co. said in a letter to the commission that it is now expected that 34,000 barrels of radioactive water, instead of 24,000 barrels, will be extracted for underground disposal.

Instead of 50 to 130 curies of radiation, 459 curies now are expected to be contained in the water, the commission was advised.

Project drilling teams began a $2 million second effort this week to find out what happened after three 30-kiloton nuclear explosives were detonated more than a mile underground southwest of Meeker on May 17, 1973. The experiment was designed to determine if trillions of cubic feet of natural gas locked in underground rock formations can be shaken loose by nuclear explosions.

By early September, drilling teams hope to penetrate the cavity created by the middle of the three-tiered explosives, and testing of gas and water disposal can begin.

Earlier tests on the top cavity showed the devices didn't connect into one larger cavity as expected but did generate more radioactive water.

The sponsors said tests conducted in the topmost cavity resulted in the revised data expected in the lower caverns.

A health department spokesman said it isn't known if additional amounts of radiation will be dispersed into the air as a result of the new data. Earlier, 80 per cent of the radiation was to have gone into the air with contaminated gas burned in an attempt to evaluate the results of the blasts.

COSTS OF ELECTION

HON. BILL FRENZEL

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 18, 1974

Mr. FRENZEL. Mr. Speaker, the Wall Street Journal of Thursday, July 11, carried an interesting article by Mr. Alan L. Otten on the subject of campaign spending.

The article concerns a study done at Harvard which reaches the conclusion that campaign spending limits being discussed in current congressional debate are far too low.

The article's conclusions stray far from conventional wisdom, but deserve close examination:

POLITICS AND PEOPLE—HIGHER SPENDING

(By Alan L. Otten)

WASHINGTON.—Campaign spending limits being discussed in the current congressional debate are far too low.

This heretical view is advanced in a voluminous analysis of actual spending in the 33 Senate races of 1972. The study was done by Harvard graduate student Roland Cole, under the close supervision of a hard-headed faculty group including former California Finance Director Hale Champion and presidential scholar Richard Neustadt.

The higher-limit recommendation stems from a typically academic thesis: The purpose of a political campaign is not just to elect someone but also to inform the candidates, educate the electorate, and encourage wider political participation. Perhaps unrealistically, the report assumes that larger spending would better achieve these goals.

"Watergate and related events tend to place the issue in the context of preventing excessive spending and controlling 'corruption,'" the study states. The idea is that the less money spent, the less needs to be raised, and thus the purer the process. Completely neglected in this statement of the issue is the need for campaigns to serve the broader public purposes, and currently-proposed spending limits just wouldn't permit this to be done, the report argues.

The Harvard survey took the detailed financial reports of all 67 major Senate candidates in 1972, and then used computers and involved statistical techniques to analyze actual spending on a score of different categories of campaign activities. All this was supplemented with personnal interviews with key men in 12 typical races.

The Senate-passed campaign bill proposes a general election spending limit for Senate candidates of 12 cents per adult, while the bill being shaped up by the House Administration Committee proposes a ceiling of 5

cents a person. Mr. Cole's analysis found the average 1972 Senate campaign spending in the general election about 25 cents per adult, with some candidates going up to 80 cents, 90 cents and even $1.10.

Twenty-four of the 67 candidates would have violated a limit of 25 cents per adult, and 47 would have violated a 10 cent limit, yet few candidates or campaign managers felt they had adequately carried out the broad goals of education and involvement. In Kentucky, for example, winning Democrat Walter Huddleston and losing Republican Louis Nunn each spent about 31 cents per adult and both felt they would profitably have spent more.

"If campaigns are to fulfill any of the functions listed above . . . the present level of spending is much too low, if anything," the Harvard monograph contends. It suggests that 50 cents per adult might be a proper target—for a total spending of $77 million in Senate general election campaigns, over three times the $24 million actually reported in the 1972 races.

Tight spending limits also substantially favor incumbents, according to the Cole survey. Only six of the 25 incumbent Senators running for reelection in 1972 were outspent by challengers, and three of them lost. Of the 20 Senate candidates spending below 10 cents per adult, the only four to win were all incumbents, and all four ran against challengers who spent even less than they did. The one incumbent to spend more than 25 cents per adult and lose was Caleb Boggs of Delaware, but he was sharply outspent by challenger Joseph Biden.

The evidence is sketchy, the study concedes, but does suggest "that only incumbents win when expenditures are very low, and things are much more even when expenditures are relatively high." Present proposals, it continues, are "far too low to achieve any conceivable purpose other than to maintain incumbents in office."

Mr. Cole and his mentors don't want complete public financing of campaigns; they see a need for continued private contributions. But to make these contributions less pivotal and to distribute resources more evenly among candidates, they think the government must supply cash subsidies or such services as free mail, free air time, voter lists, and other cost-reducing help.

Other fascinating findings in the Cole report are these:

Not many candidates reached the special limits put on media spending in 1972, and those who did simply decided to spend more on direct mail or other non-limited activities.

A candidate's percentage of the final vote tended to be very closely related to his percentage of total spending in that race.

Winners thus generally spent more than losers, but winners and losers did not spend significantly different amounts per vote received. In other words, winners didn't spend their money much more effectively than losers.

More dollars went for TV and radio than any other single activity, but they still averaged less than 20% of total spending, and seemed to be reaching saturation levels in many states. Other types of spending, such as direct mail or voter canvassing, appear far more likely to rise significantly in coming years.

When a victorious challenger outspent his incumbent opponent, the money didn't go on TV, direct mail and other elements of the "media blitz" that worries so many lawmakers, but rather on staff, telephones, campaign materials and special events—the items that usually signify an effort, emphasizing free media coverage and heavy voter canvassing. Thus, Mr. Cole believes, "The losing incumbent is perhaps not the conscientious, close-to-his-district Senator swept aside by raw money and a media blitz, but the Senator who has drifted away from his district. . . ."

Spending limits based solely on population may seem fair, but they're not. Some costs, such as direct mail, vary directly with population, but TV production and many other costs don't. Absolute dollar limits might be far fairer.

Campaign spending is not an occult subject, the Harvard study says again and again; it can be examined and analyzed with profit. The study's pages prove the point.

MRS. KING WAS LATEST VICTIM

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 18, 1974

Mr. LEHMAN. Mr. Speaker, the senseless killing of Mrs. Martin Luther King, Sr. adds yet another victim to the thousands of murders which are committed each year with handguns.

Recently, the Florida Department of Law Enforcement released its 1973 annual report on crime in Florida. The statistics contained in the report are relevant.

During 1973, a total of 1,183 murders were reported, an increase of 25.2 percent over the previous year. Handguns accounted for over half—53.9 percent—of these killings.

Handguns were also used in 34.1 percent of the reported aggravated assaults in Florida in 1973, an increase over both 1971 and 1972.

The statistics on injuries among law enforcement officers are equally serious. Eighty-three percent of police officer injuries, as a result of assaults, were carried out with handguns.

These figures are shocking, and my constituents seem to agree; 77 percent of those who responded to my latest newsletter poll indicated they favor stronger gun controls.

The figures I have cited above speak for themselves. As more handguns find their way into the homes of our citizens, the closer this Nation comes to being, in effect, an armed camp. Although certainly not all Americans who own guns ultimately use them criminally, or even irresponsibly, the fact remains that handguns account for the majority of the murders in my own State of Florida. The need for gun control is clear.

The article follows:

[From the Miami Herald, July 2, 1974]

MRS. KING WAS LATEST VICTIM OF REAL PUBLIC ENEMY NO. 1

Yet another stain of senseless murder has taken the good and kind life of Mrs. Martin Luther King Sr., compounding the tragedy of her son's assassination. Mrs. King was struck down in church, at the organ. A church deacon also was killed. A man in the congregation was wounded.

A 23-year-old man was wrestled to the floor and two pistols were taken from him. He later told Mrs. King's husband, "Christians are my enemies."

Prominence adds to the shock of Mrs. King's death, but other useless, insensible violent acts are no less tragic. Last week in Miami, a man siting in his car was shot for no other reason, apparently, than his assailant felt white people were his enemies.

Friday night, a 17-year-old boy working in a gas station was robbed, abducted, beaten, tied up and executed by someone who felt his lack of $200 was an enemy and sufficient reason to kill—with a gun.

A young mother, despondent, walked on the beach of Key Biscayne with her three-year-old daughter Friday night. With the gun she had bought, she killed the child, then herself. Life, she felt at that moment, was her enemy.

At midnight Saturday, a domestic argument ended when a .38-calibre bullet struck the husband in the chest. Who was the enemy?

The enemy there, and the enemy throughout this country, is the easy availability of guns of all sorts; guns that make suicides of the temporarily depressed, guns that kill innocent children while they are "just looking" at the fascinating weapon, guns that serve as instant credit cards for the refuse among us who want money, or drugs or the sense of power their pitiful non-character cannot supply.

Outside the hands of law enforcement personnel who must protect themselves and the rest of us from criminals and maniacs—and perhaps ourselves—there is no good purpose a gun can serve. It serves death and tragedy and crime and it shames a nation that insists it is civilized.

Still, the "patriots" and "sportsmen" throw up their lobbied defenses at the first mention of strict gun laws. Guns do not kill, they insist; people kill.

But people kill with guns. Because it is easier, because it is quicker. In the white heat of rage or in the cold criminality of design or in the anguish of insanity either temporary or chronic, instant and irrevocable mayhem and murder are the by-products of the American people's acceptance of the cruel "right to bear arms . . ." cliche.

We have opposed the sometimes fashionable idea that every outrageous assault on the public peace and order, or the private right to life, is somehow the fault of "society."

Yet if society does not raise itself up, in concert, to stop the gun carnage, we will collectively—and perhaps individually—continue to pay the unconscionable price of savagery to ourselves.

In the name of human decency—and with murder in the church, in the name of God—isn't it time, now, to say stop?

CAPTIVE NATIONS WEEK

HON. HENRY P. SMITH III

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 17, 1974

Mr. SMITH of New York. Mr. Speaker, we are in the process of observing the 15th anniversary of Captive Nations Week. How many more of these sad affairs will we see? As the years pass and we seek closer relations with the Soviet Union, it becomes more and more easy to forget those nations that lost their identities in Soviet takeovers. We must remember in our dealings with the U.S.S.R. that behind the facade of smiling faces, toasts, and gifts, people are being imprisoned, tortured, refused emigration, and denied religion and culture.

Not to continue to seek relief for these people and their enslaved homelands would be to compromise our principles of national independence, personal freedom, and justice.

A RESOLUTION TO PERMIT BROADCAST COVERAGE OF HOUSE IMPEACHMENT PROCEEDINGS

HON. JOHN B. ANDERSON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 18, 1974

Mr. ANDERSON of Illinois. Mr. Speaker, I am today introducing a House resolution which would require that any House floor proceedings relating to a resolution of impeachment of the President during this 93d Congress be open to radio and television broadcast coverage. My resolution further provides that the Speaker of the House, in consultation with the minority leader, make the necessary arrangements for the broadcast coverage of impeachment proceedings, and promulgate necessary rules, guidelines, and procedures for the broadcast media to insure that the coverage is in conformity with acceptable standards of dignity, propriety, and decorum traditionally observed by the House in its operations.

Mr. Speaker, I think it is important that if a resolution of impeachment does reach the House floor, the American people be permitted to listen to and view this historic occasion. I do not share the fear expressed by some that broadcast coverage will turn the impeachment proceedings into a circus or invite widespread demagoguery. If anything, I think television and radio coverage will have the opposite effect. With the entire American public viewing the proceedings on their TV screens, I think Members will take special care to be restrained, judicious, and fair so as to uphold the dignity and decorum of the House in carrying out this most awesome and somber of our constitutional responsibilities.

Finally, Mr. Speaker, while I am introducing this resolution today in order to further stimulate Members to give serious thought to the pros and cons of broadcasting impeachment proceedings, I would not expect that the Rules Committee would hold hearings on the resolution until after the Judiciary Committee has made its final report and recommendations, since it is not clear at this point what those recommendations might be. If the committee should recommend impeachment, there should be ample time between reporting and the beginning of the floor proceedings to consider this in the Rules Committee, bring it to the floor for a vote, and, if the vote is affirmative, make the necessary arrangements for broadcast coverage.

At this point in the RECORD, Mr. Speaker, I include the full text of my resolution:

H. RES. 1244

Resolved, That, notwithstanding any ruling or custom to the contrary, the proceedings in the Chamber of the House of Representatives or any resolution to impeach the President of the United States during this Ninety-third Congress shall be open to radio and television broadcast coverage.

SEC. 2. The Speaker of the House of Representatives, in consultation with the minority leader, shall make such arrangements as may be necessary to facilitate such broadcast coverage.

SEC. 3. The Speaker of the House of Representatives, in consultation with the minority leader, shall promulgate such guidelines, rules and procedures as may be necessary to insure that such broadcast coverage shall be in conformity with acceptable standards of dignity, propriety, and decorum traditionally observed by the House in its operations, consistent with the provisions of rule XI, clause 33 of the Rules of the House of Representatives which pertain to broadcast coverage of committee hearings.

THIS IS LIBERTY LOBBY

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 18, 1974

Mr. EILBERG. Mr. Speaker, for some time an organization whose leadership espouses great sympathy for Hitlerian Naziism, has been proselytizing a vicious and clandestine brand of antisemitism on 126 radio stations across the Nation.

This organization, the Liberty Lobby, is solidly backed with vast amounts of money. It is among the most active of the extremist groups now infesting the national media with thinly disguised propaganda campaigns of the most rakish nature.

At this time I enter into the RECORD an article from the "Bulletin" of the Anti-Defamation League of B'nai B'rith, describing the Liberty Lobby, its methods and goals:

THIS IS LIBERTY LOBBY

(By Irwin Suall)

An outspoken anti-Semite who has professed an abiding admiration for Hitler and Nazi Germany and has been the moving force behind a network of Jew-hating organizations and publications over the years is also the unpublicized force behind "This Is Liberty Lobby," an extremist radio program carried five times a week by some 126 stations around the country.

His name is Willis A. Carto. Officially listed as treasurer, he is the founder and real boss of Liberty Lobby, a 16-year old Washington-based propaganda and lobbying apparatus which has become one of the most active and best financed groups on the American far right.

Beginning its radio operation in March of last year with only four stations, "This Is Liberty Lobby" could be heard on over 62 stations by September, on over 100 by November and, now on 126—most on a paid basis, but some as a "public service." The list of outlets may soon be given a boost thanks to a contract recently signed with the Mutual Broadcasting System to make "This Is Liberty Lobby" available on an optional basis to the network's more than 600 stations. The principal owners of the Mutual Broadcasting System are Mr. and Mrs. Benjamin D. Gilbert who have contributed thousands of dollars to Liberty Lobby since 1965. A recent Gilbert gift was in the amount of $1,500.

"This Is Liberty Lobby" broadcasts during and immediately after the Arabs' October aggression against Israel were typical of the outfit's point of view. The programs featured fierce attacks on America's foreign policy in the Middle East and on the American Jewish community for its support of the Jewish state in its moment of crisis. Israel, the victim of the attack and the only democracy in the Middle East, was assailed as a "bastard state" and an "insignificant patch of worthless desert." The Arab propaganda line—that Israel is rightfully an Arab country—was parroted. "Zionism" was described as an evil and alien force, "a powerful force within America," and Senator Fulbright's slur about Israel "controlling" the U.S. Senate was quoted.

As the daily attack progressed, it scraped the garbage cans of professional hatemongers for "facts" and vocabulary. The commentator spoke of mysterious "international bankers" and of the "political Zionist-influenced press." He suggested that Jews had dragged the United States into world wars for their own hidden purposes, and that they are subversive and disloyal.

On April 23, 1974, in a defense of Attorney General William Saxbe's slur against "Jewish intellectuals" of two decades ago as being "enamored of the Communist Party," Liberty Lobby's broadcast libeled the Anti-Defamation League as being, in effect, pro-Communist and representative of foreign interests. For "proof," the broadcast cited the writings of the notorious anti-Semite, Robert H. Williams.

ADL, exercising its legal rights under the Federal Communications Commission's Fairness Doctrine, complained to the 73 stations which had carried the attack and asked for air time for a reply. (Although the stations are required to notify those so attacked and offer such time, in this case none had done so.) Most of the stations complained to have since complied, and an answer to the false and malicious attack, taped by Arnold Forster, ADL's general counsel and associate director, has been sent to them.

The response gives "This Is Liberty Lobby" audiences—and the stations themselves—the facts about the organization, its founder, and its dissemination of bigotry and hatred from behind a mask of so-called "patriotism."

Liberty Lobby was founded as a front for the seamier operations of Carto, among them Liberty and Property, a clearinghouse for keeping informed on anti-Semitic activities; *Western Destiny*, a magazine which published racist, Nazi-type articles, and Noontide Press, publisher of anti-Semitic, racist, and pro-Nazi books—including "Imperium," by the late Nazi apologist Francis P. Yockey, a book containing a dedication to Adolph Hitler and a laudatory 35-page introduction by Carto himself.

Carto, 47 years old, began to work full time as a professional bigot and organizer in 1954 when he became executive secretary of Liberty and Property. A racist, as well as an anti-Semite, he complained while working for Liberty and Property, that "only a few Americans are concerned about the inevitable niggerfication of America." His 20-year career includes serving as a director of Congress of Freedom, a right-wing, racist organization, and as an organizer for the John Birch Society.

In 1966, Carto took over the venerable *American Mercury* name and placed it on the masthead of a quarterly devoted largely to anti-Jewish hate and issued in tandem with the semi-monthly *Washington Observer Newsletter*, similarly laden with unvarnished anti-Semitism. In 1968, a Carto-run Youth

for Wallace movement, renamed the National Youth Alliance, attempted to imbue restless American youth with the philosophy of his hero, Yockey—that the future greatness of the West must be hinged on "the German revolution of 1933" (the Third Reich). At one NYA organizational party in honor of Carto, Nazi emblems were openly displayed and Hitler's *Horst Wessel* was sung by the guests.

In the meantime, Liberty Lobby, the "conservative" front, (William F. Buckley, Jr.'s *National Review* labeled it "pseudo-conservative") grew to near million-dollar-a-year proportions. Its monthly *Liberty Letter*, with a current circulation of 116,000, is the biggest publication on the radical right. Other front groups include Americans for National Security, Friends of Rhodesian Independence, Government Educational Foundation, Save Our Schools, and the United Congressional Appeal.

That the "respectable" veneer of Liberty Lobby has worn pretty thin is not surprising for an organization which attracted to its leadership—and boasted on its letter heads—such well-known anti-Semites as Richard Cotten, New Touchstone, Kenneth Goff, W. Henry MacFarland, Joseph P. Kamp, Tyler Kent, and Allen Zoll. Gradually, its literature dropped all pretenses. In a 1967 U.S. Court of Appeals case brought by Liberty Lobby against columnist Drew Pearson—which liberty Lobby lost—Judge Warren E. Burger (now Chief Justice of the U.S. Supreme Court) said the organization's activities reveal "overtones of anti-Semitism and racism." By 1970, Liberty Letter openly fumed about the "aggressive minority which tightly controls the free press," an "alien-minded and America-last group" identified as "Zionists."

In 1971, Liberty Lobby published a 40-page pamphlet, "America First," ostensibly an analysis of Middle East problems. Opening with quotations from Saudi Arabia's King Faisal and American anti-Semite Col. John Beaty, the pamphlet is a tirade of hate blaming the Jews not only for Middle East crises but for the crucifixion of Jesus, the Russian Revolution, and the two world wars. It questions the allegiance of American Jews and suggests that the only Jews who are loyal Americans are those few who are openly pro-Arab.

The blatantly anti-Semitic "America First" pamphlet is offered at the conclusion of each "This Is Liberty Lobby" broadcast as a bonus to new subscribers to *Liberty Letter*—with the growing network of radio outlets from coast to coast either ignorant of the program's contents or uncaring about their role in helping to peddle bigotry.

Years, ago, Carto wrote to a fellow rightist, Norris Holt: "Hitler's defeat was the defeat of Europe And America . . . The blame must be laid at the door of the international Jews."

This is the man behind the Liberty Lobby messages brought into American homes by licensed radio stations. "This Is Liberty Lobby" can fool the public—and radio management—into thinking it is a respectable news source only so long as the organization's anti-Semitic character remains hidden. That is why ADL took the trouble to answer the Lobby's attack, will continue to monitor its programs and expose their source.

THE 13TH DISTRICT POLL RESULTS

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 18, 1974

Mr. LEHMAN. Mr. Speaker, I wish to submit for the RECORD the results of my newsletter poll, taken in June of this year.

13TH DISTRICT POLL RESULTS

1. Do you favor a Constitutional amendment prohibiting abortions? Yes, 19%; no, 79% undecided, 2%.

2. Do you favor resuming diplomatic relations with Cuba? Yes, 47%; no, 49% undecided, 4%.

3. Do you favor stronger gun control laws? Yes, 77%; no, 22%; undecided, 1%.

4. How would you rate the job President Nixon is doing? Good, 22%; fair, 19%; poor, 59%.

5. Military aid to South Vietnam should be: Stopped, 67%; kept as is, 25%; increased, 4%; undecided, 4%.

RESCUE HOIST NEEDED IN NIAGARA FALLS

HON. HENRY P. SMITH III

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 18, 1974

Mr. SMITH of New York. Mr. Speaker, since last fall, I have been working with the Civil Defense and National Guard units in my district in at attempt to acquire helicopter rescue hoist equipment for Company A, 42d Aviation Battalion, New York National Guard, based in Niagara Falls.

Thus far, our attempts have been tangled in bureaucratic redtape. The Department of the Army has up to this point refused to assign a hoist to Company A on the grounds that air ambulance units have first priority for the hoists which are reportedly in short supply.

I believe that the special circumstances of this case should be enough to eliminate redtape. Every year there are several tragedies and many near tragedies involving the Niagara River and the Falls. Taxpayers in this area deserve the protection that a National Guard helicopter equipped with a rescue hoist could offer. The helicopters are already there—we just need the proper rescue equipment for them.

At the present time, the closest helicopter rescue equipment is with the Coast Guard in Cleveland, Ohio, or Detroit, Mich. Rescue equipment in Niagara Falls could serve Lake Ontario and Lake Erie as well as the Niagara River.

The most recent Niagara River rescue occurred on July 9. Four people awaited rescue for over 3 hours after their cabin cruiser lodged on a reef in the swift current of the river about 2 miles above the falls. Coast Guard officials sent for the Detroit helicopter, but the four individuals were rescued by boat before it arrived.

Afterwards, Niagara Falls Gazette columnist and editor, Don Glynn, defined "playing it cool" as:

That's when you're clinging to a rock about 100 ft. from the brink of the Falls—your boat capsized in the upper river—and someone hollers from shore to "hang on, because there's a rescue helicopter on the way from Detroit—should be here in an hour!"

Officials said this group was never in any real danger of going over the falls during the time they awaited rescue. However, in an incident last October, 10 people, including six would-be rescuers almost lost their lives. A private helicopter without a hoist and a powerful rescue boat were wrecked in the rescue attempt.

The June 1974 Reader's Digest includes an article on this dramatic rescue which I would like to submit to my colleagues. It is time we learned that lives are more important than policy and redtape:

WE ARE TOO CLOSE TO THE FALLS

(By James H. Winchester)

(Caught in a sequence of escalating disaster, ten people fought for their lives in the raging rapids above Niagara's precipice.)

It was the first Sunday of last October, and thousands of tourists crowded both the American and Canadian shores of Niagara Falls. At the eastern tip of Goat Island, on the U.S. side of the Niagara River, Bill Faust was resting in the ticket booth at the Prior Aviation sightseeing heliport. Only a few hundred yards away, 100,000 cubic feet of rushing water makes a showy 161-foot drop over the Horseshoe and American falls every second. It had been a busy day, and the three-passenger helicopter was now away refueling at Niagara Falls Airport.

Glancing idly toward the Canadian shore, Faust was electrified. Midriver, already wrapped in spray, a small boat was sweeping toward the lip of Horseshoe Falls. His first thought: *My God! Nothing can keep them from going over the falls.*

On the Brink. Four people were in the boat. In the bow were 21-year-old Lee Switzer, of Buffalo, N.Y., 21-year-old Jo Ann Horn, of Tonawanda, N.Y., and her 18-month-old son, Michael. Jerry Land, 20, also from Buffalo, was at the tiller of the outboard motor in the stern.

Totally unfamiliar with the Niagara River, the group had blithely started out from Buffalo two hours earlier. Moving downstream in a 15-foot boat borrowed from Jerry's mother, they somehow hadn't seen the huge warning signs three miles back from the falls banning all boats beyond that point.

Between Goat Island and Canada, the Niagara River is only three to four feet deep in most places, but filled with great boulders and boiling rapids. The boat was less than a half-mile from Horseshoe Falls when the outboard motor's propeller blade struck a rock, tearing itself loose from the drive shaft. "No control! No control!" Jerry cried. Suddenly aware of the roar of cascading water, he yelled another warning: I think we're too close to the falls!" He tried to steer toward Goat Island, 100 yards to the right, but the boat was already caught in the river's accelerating 20 m.p.h. downhill race.

Leaving little Michael, the only one wearing a life jacket, alone in the craft, the two young men and Jo Ann jumped into the river and struggled desperately to hold back the boat in the waist-high water. It was impossible. The solid-stone river bottom was slick as glass, and the current's inexorable force tore Jo Ann and Lee off their feet, ripping their hands from the boat. Jo Ann's scream was piercing: "The baby!"

Jerry still held on to the boat, but it was plunging uncontrolled toward the falls. Letting go, he grabbed Michael by his life jacket, lifting him clear. He held him high above his head and fought to keep his balance. Jo Ann and Lee didn't regain their feet until they were 150 feet closer to the falls. Now they braced against each other for shaky support.

Fireball. Alerted by a phone call from Bill Faust, at 3:33 p.m. the Niagara Frontier State Park Police radioed a report that a boat had been sighted off the east end of Goat

Island. With siren wailing, patrolman James MacNeil drove to Goat Island's eastern tip in less than two minutes—three other Park policemen just behind him. As they watched, the boat shot over the brink of Horseshoe Falls, dropping to destruction in the rock-filled whirlpools below. "In front of me," MacNeil recalls, "were the people from the boat. The girl kept stumbling, and the fellow with her kept grabbing her before she could be swept away. The guy holding the baby was closest, maybe 300 feet out."

Looping a coil of quarter-inch nylon rope around his waist, with the three officers holding the other end, MacNeil waded toward the stranded boaters. But even MacNeil, a powerful, 210-pounder, couldn't keep his balance in the rushing river. Time after time he was knocked off his feet—and finally had to be pulled back to land.

At this point, the police saw the sightseeing helicopter approach its landing pad 100 yards away. Pushing through the gathering crowd, MacNeil and Sgt. Joseph Boyd raced to the heliport and shouted an explanation of the situation to pilot Dale Hartman. A former helicopter gunship pilot in Vietnam, Hartman kept the blades turning as MacNeil and Boyd, removing two pins from their hinges, tore off the right door and tumbled into the small cabin. Hartman then lifted off. Seated in the open door, MacNeil planted his feet on the landing skid, while Boyd held him from behind by his belt.

As Hartman hovered over Jerry Land and Michael, MacNeil leaned out and grabbed the baby's life jacket. He flipped the child back over his shoulder to Boyd. "I've got him!" Boyd shouted. "Take off!"

Seeing the helicopter begin to move away—and not realizing that it could carry no more passengers—Jerry Land lunged in panic at the skid rising above his head. He gripped it hard, and for an instant it seemed he would be lifted clear of the clinging current. Feeling the sudden dragging weight, Hartman frantically tried to compensate on the controls. He was too late. The tip of one of the rotor blades, yanked down by Land's 150 pounds, slashed into the water and shattered.

Dropping like a rock, the helicoper smashed into the water with such force that the just-filled fuel tank ripped apart. The volatile gasoline, spraying in all directions, struck the exposed, red-hot exhaust pipes and exploded in a gigantic, deafening burst of red flame.

Last Grasp. Never had Jo Ann experienced such a "gone" feeling. *The baby is dead for sure,* she thought and went limp, rolling another 50 feet closer to the falls before Lee could help her back to her feet.

As the plane exploded, Land's grasp on the skid was torn loose, and he was thrown back into the water. Semiconscious, pilot Hartman dangled forward, held by his seat belt and shoulder harness. MacNeil found himself "face down on the bottom of the river, being scraped along by the current." When he managed to surface, he was in the middle of a 50-foot-wide pool of blazing gasoline. Trapped, with his left arm almost useless from hitting something and with his hair and eyebrows singed from the heat, MacNeil ducked back under the water.

Sergeant Boyd, with the baby in his grasp, was also propelled into the flames. "I was turning over and over," says the six-foot-four, 200-pound Boyd. "When I realized I no longer had the baby in my grip, it was the worst moment of my life!"

Downstream, MacNeil surfaced again—this time out of the flames. He caught a flashing glimpse of Michael's bright-red jacket as the child, buoyed face-up by his life jacket, swept past. Lunging from his feet in pure reflex, MacNeil grabbed for him. "I just caught him by his foot," he says. "Thank God my grip held. It was a miracle!"

The fiery gasoline, moving swiftly on the current, headed for Jo Ann and Lee. "I thought the flames would cover us," she says, shuddering. Instead, they swept past just inches away. Seconds later, the sheet of fire passed MacNeil, fighting to get back on his feet with Michael.

Where the wrecked helicopter rested precariously in the riverbed with part of its bubble cabin exposed, Hartman loosened his seat belt and climbed out, dazed and bleeding from a deep scalp wound. Boyd stood 60 feet away, and Land a little beyond. Farther out, Jo Ann and Lee couldn't move against the strong stream. Below them, the baby was held tight by MacNeil. "I didn't dare shift my feet," he says. "I had them wedged in a crack in the stone bottom."

Fragile Lifelines. The time was now 3:45 p.m. Police, fire engines and other rescue vehicles filled the afternoon air with the sound of their sirens as they raced to the scene. From the Canadian side of the river, in the joint control room of the New York State Power Authority and the Ontario Hydro Corp., Ray Willis, the supervisor on duty, watched through binoculars. International agreements strictly limit the amount of water that the two companies can take out of the river above the falls to make electricity. Any extra withdrawals require the approval of both countries. Willis considered this legal barrier, but knowing the waisthigh current was strong enough to sweep those in the river to their deaths, flipped switches opening a dozen extra gates, slowly decreasing the water level by one third.

Thus aided, Boyd and Land wallowed back to the helicopter. From it, Boyd salvaged a length of quarter-inch rope. He tied one end to the wreck and floated the line downstream toward MacNeil. Finally grabbing the rope, MacNeil inched his way back along its taut length to the wreck, dragging Michael with him. Climbing into the partly submerged bubble, he slumped down exhausted, the baby in his arms. "I thought he was dead," he says. "I started breathing into his mouth and shaking him. In a minute or so, he began to cry. I just hugged him close, and pretty soon he went off to sleep."

Real rescue, though, was still far away. On Goat Island, police readied a line-throwing gun that shoots an inch-long projectile pulling 600 feet of thin nylon cord behind it. This in turn is used to pull a half-inch line, followed by a heavier one-inch manila rope.

Sgt. Lyle Newberry made a perfect shot across the top of the helicopter 300 feet away, but when Boyd and Land started pulling the cord toward them it broke. Another try. Another perfect shot. This time the line remained intact. But it would take over an hour to work the one-inch line to the helicopter. Meanwhile, the current threatened to dislodge the wreck and send it over the falls. And the line used to pull MacNeil and the baby back to the wreck was lost in efforts to get it to Jo Ann and Lee.

"He's Gone!" The police decided to try their boat, an 18-foot craft with 110-h.p. main motor and 10-h.p. auxiliary berthed a mile back up the river. It had never been taken this far downstream.

At 4:32 p.m., with both motors running for better steering, the white police boat moved cautiously downstream. Newberry was at the wheel in the bow while Lt. Joseph DeMarco, commanding officer of the Park police, who had been summoned from his home minutes before, and patrolman Anthony Larratta handled the motors in the stern. A hundred yards from the wreck, the big motor broke its shaft on the rocky bottom and the auxiliary motor stuttered to a stop. When the anchor wouldn't catch, DeMarco and Larratta leaped into the rushing water, shouting, "Get out!" at Newberry, who was still trying to restart the auxiliary motor.

Jumping over the side, the 48-year-old sergeant was swept off his feet. Vainly, he fought for a grip on the slippery rocks. The tips of his fingers were scraped to bloody stumps, and his wedding ring was torn from his finger as he was swept on in the frothing rapids. The empty police boat had already gone over Horseshoe Falls. DeMarco's heart almost stopped as Newberry disappeared, too. His only thought: *He's gone!*

Somewhere in Newberry's brutal tumble, the straps of the life jacket snapped. Pushed down around his legs, it bound them together like a rope. Unable to kick, he got some help from the current as it curved toward Brother Island, the last solid surface before the drop over the falls. "I was just a couple of feet away from the bank, and moving fast," he says. "I grabbed at some overhanging shrubs and caught one about the size of a broom handle with my right hand. How I held on!"

Getting both hands on the branch, Newberry inched his way out of the water. "I just lay there, numb and battered," he says, "thanking God over and over." (He was rescued later by firemen with an extension ladder.)

Chains and Cheers. Nine people were still in the water off Goat Island, five of them at the wrecked helicopter. At 4:56 a Canadian sightseeing helicopter moved into position near DeMarco and Larratta, and dropped a ¾-inch manila line. The other end of this line was then dropped to the people at the wreck. Using this lifeline, DeMarco and Larratta worked their way upstream to the others. Then they floated the rope down to Jo Ann and Lee. Ten minutes later they, too, had been pulled back, and MacNeil handed Michael to his sobbing mother.

By 5:31, Boyd and DeMarco completed the backbreaking task of pulling the dragging one-inch manila line through the water from shore. Now, the stranded group was ready to try to get to land.

DeMarco, holding Michael in one arm and clinging to the line with the other, went first. Behind him came Jo Ann, assisted by Larratta. Hartman, his head bloody, was next, with Lee and Jerry behind him. In the rear, MacNeil, who couldn't use his injured left arm at all, was assisted by Boyd. It took 20 minutes to get to shore, but they made it.

The thousands of tourists who had watched the spectacle cheered wildly. From hundreds of cars on both sides of the river, horns blared. What Jerauld Brydges, longtime reporter for the Niagara Falls *Gazette,* called "the most involved and dangerous rescue ever made at the falls" had ended in success.

All of the Niagara Park police who so risked their lives are now back on the job, their everyday work more concerned with traffic than thrillers. To help in future rescues, steps are under way to station in the area a helicopter equipped with a lifesaving hoist. New and bigger warning signs, farther back from the falls, have been erected.

Jo Ann has expressed her thanks to the Niagara Park police. Their reaction: "That's all right. It's part of our job, but *please* don't do it again!"

PRIORITIES FOR INDIA AND ITS FIRST EARTH SATELLITE

HON. ROBERT J. HUBER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 18, 1974

Mr. HUBER. Mr. Speaker, I think we were all shocked by the explosion of India's first nuclear bomb. This explosion certainly plummeted India into the first ranks of the world's hypocrites after all her declaiming for years about other nations and their warlike intentions. But, if this development were not shocking

enough, the Foreign Broadcast Information Service monitored a broadcast from Moscow on July 11 which stated that the first Indian artificial satellite will be launched from the U.S.S.R. this December with aid of a Soviet rocket. The announcement specified that the majority of the equipment for the satellite was manufactured in India. Certainly, an Earth satellite is just what India needs. It should make the poor American taxpayer who has shelled out money for so many years to feed India feel just great.

THE LAKE SUPERIOR POLLUTION CASE

HON. DAVID R. OBEY

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 18, 1974

Mr. OBEY. Mr. Speaker, I am much troubled by the recent decision of the Eighth Circuit Court of Appeals to allow the Reserve Mining Co. to continue dumping taconite tailing, containing asbestos fibers, into Lake Superior. Asbestos has been shown to cause cancer when inhaled, but its long-term effects when ingested are presently unknown.

The court ruled that a health risk from that dumping had not been proven although it admitted, "Reserve's discharges represent a possible medical danger." Medical science has not yet developed a method of determining whether asbestos fibers cause cancer when consumed in water or food.

According to Russel W. Peterson, Chairman of the White House Council on Environmental Quality, the only way the Government can now "prove" its case is by "counting the dead bodies through an after-the-fact epidemiology." That is a sad situation indeed, and calls to mind the similar cases of DES, and 2,4,5T, and mercury compounds, chemicals used before and until their harmful effects were shown in humans and animals.

This court decision could place in jeopardy the health of the over 200,000 people whose water is taken from the portion of the Lake where Reserve is dumping its waste. In addition, a hazardous precedent has been set for future decisions which affect the public health. I wish to insert the following editorial, an excellent summary of the case, for the interest and information of my colleagues:

THE LAKE SUPERIOR POLLUTION CASE

The long courtroom battle over the Reserve Mining Company's polluting of Lake Superior may finally be coming to an end. As matters now stand, however, the case could leave legal debris even more hazardous to public health than the mountains of taconite tailings which Reserve has been dumping into the lake since 1956.

The landmark case began when the federal government, three states (Minnesota, Wisconsin and Michigan) and environmentalists brought suit against Reserve for violating water pollution control laws. Then scientists discovered last year that the taconite tailings contain asbestos-like fibers of a kind which, under other circumstances, have been linked to a high incidence of human cancer. This raised the ominous possibility of long-term threats to the health of some 200,000 people who draw their drinking water from that portion of Lake Superior.

The key issue thus became the extent to which the health hazards had to be proved before Reserve could be ordered to switch to land disposal of the tailings. In a blunt opinion at the end of a nine-month trial, U.S. District Court Judge Miles W. Lord ruled that the risk to health was too substantial to be tolerated any longer, especially since safer disposal methods were feasible. Because Reserve and its co-owners, Armco and Republic Steel, refused to change their ways, Judge Lord ordered the plant to close on April 21.

This forthright decision was quickly overturned by a three-judge panel of the Eighth Circuit Court of Appeals. At the companies' request, the panel immediately lifted the shutdown order, allowing the taconite processing and dumping to resume. Then, after a hearing, the court last month issued an opinion containing a very different definition of what constitutes a real threat to public health. The available scientific evidence, the court said, showed that "Reserve's discharges represent a possible medical danger," but the ultimate health effect "is simply unknown." Judge Lord had erred, the appellate panel found, in his "determination to resolve all doubts in favor of health safety." In the court's view, fear of unknowns "may not be substituted for proof of a demonstrable hazard to public health."

The panel did conclude, however, that the dumping, even if not demonstrably hazardous to people, was harmful to Lake Superior and should be stopped as soon as an acceptable land disposal system could be arranged. The parties are negotiating a settlement under Judge Lord's auspices, but Reserve maintains the lake disposal may have to go on for another three to five years.

So the pollution is continuing to build up in Lake Superior. That is bad enough. The larger problem is that even after the dumping has finally stopped, the appellate court's definition of an actionable health hazard could remain to frustrate other clean-up suits. That definition means, essentially, that the public has little protection against unknowns, however ominous, and that communities may be forced to serve as industrial tasters, swallowing strange or subtle poisons for 20 or 40 years to see what happens.

The three states involved believe that the appellate court is wrong and that the proper rule in such cases ought to be "when in doubt cut it out." Accordingly, they have petitioned for Supreme Court review. But the Justice Department has no appetite for pursuing the issue now, and a settlement may be reached at Silver Bay before the High Court can act. Thus the nation's biggest industrial pollution case to date seems likely to wind up burdening the country with a perilous precedent, one which could condemn citizens to decades of uncertainty and retard future efforts to eliminate environmental hazards before anyone gets hurt.

OFFICIAL BUSINESS IN CALIFORNIA

HON. VICTOR V. VEYSEY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 18, 1974

Mr. VEYSEY. Mr. Speaker, on July 15 I was in California on official business. Had I been here I would have voted as follows:

Final passage of H.R. 14494, to amend the Federal Property and Administrative Services Act of 1949, rollcall 379, "yea."

To suspend the rules and agree to the Senate amendment to House Concurrent Resolution 559, to provide additional copies of hearings and the final report of the Judiciary Committee on the impeachment inquiry, rollcall 380, "nay."

On Tuesday, July 16, I was unavoidably detained in my office and missed the following vote:

Motion to recede from its disagreement to the Senate amendment to the text of H.R. 7824, to establish a Legal Service Corporation, rollcall 385, "nay."

WHY I OPPOSE ABORTION

HON. EARL F. LANDGREBE

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 18, 1974

Mr. LANDGREBE. Mr. Speaker, recently an article appeared in Human Events entitled "Why I Oppose Abortion." Although it is a short article, it presents some of the major points of controversy in the abortion issue and effectively demonstrates the consequences of a position favoring abortion on demand. If anyone is interested in learning the implications of legalized abortion, I urge him to read Mr. Brudnoy's article very carefully and to reconsider his own views on abortion:

WHY I OPPOSE ABORTION

(By David Brudnoy)

During the past few weeks we have been confronted in Boston by startling revelations of fetal manslaughter and what is technically called "grave robbing." First brought to light over the Easter weekend, the disclosure may well serve to help turn the tide of public opinion against the contemporary abortion rage.

Dr. Kenneth Edelin, chief resident for obstetrics and gynecology at Boston City Hospital, stands indicted for causing the death—actual procedure of the act of killing as yet unpublished—of a 24-week-old fetus, called a "viable baby boy," by the prosecutor District Attorney Garrett H. Byrne. Rumors have circulated, unfounded as yet, that the manner of death was live dissection.

In addition to the Edelin indictment, four other physicians, all currently or formerly with Boston City Hospital, have been charged with violating an old Massachusetts law forbidding the carrying away of human bodies or remains for dissection purposes: in this instance, for medical research on fetal tissue, research the purpose of which is surely benign, however bizarre the means.

As is well known, the so-called "strict constructionist" Supreme Court now under the near-domination of Nixon appointees ruled a year ago that states could not legislate against abortions in the first several months of pregnancy.

This has led states such as Massachusetts to rush headlong into a wholesale traffic in legal abortions. Not content to let New York serve as abortion capital of the nation, the Bay State abortion lobby has been vying of late for that honor.

There are few issues so horrifying to those who respect human life, and few so exciting and conducive to outright viciousness in the minds of those who put the alleged convenience of the mother ahead of the rights of the unborn child in its fetal state, as abortion. Part and parcel of contemporary radical-chic is the cry: "It's a woman's right to

do as she wishes with her body," as if a fetus were of no other nature than, say, a hangnail or a tonsil.

Moreover, liberals tend strongly to join their radical friends in favoring some variant of an abortion-on-demand position, and conservatives divide into the familiar libertarian and traditionalist camps on this issue. Increasingly, however, some libertarian conservatives have come to see feticide (or, more fashionably, abortion) as violative of just those individual rights about which libertarians constantly speak in such glowing terms.

In Boston, Dr. Mildred Jefferson, a professor of surgery and an avowed "individualist," argues persuasively that the rights of the fetus do not in fact violate the legitimate rights of the woman who temporarily carries the fetus within her. WBUR-FM radio talk show host Douglas W. Cooper, another libertarian-conservative, makes a similar case so successfully that he long ago convinced me (previously a pro-abortion advocate) of his position.

The argument has not abated since the Supreme Court ruling. In fact, it has grown more intense. Those who champion abortion must stand adamant in their insistence that a fetus is not a human being. They must, that is, deny the building evidence within the biological sciences that all sorts of human functions have their inception in the earliest weeks of gestation. They must blind themselves both to fact and to considerations of humanity. If, that is, they wish to convince the general civilian population of their position.

Thus far, the pro-feticide lobby has been quite successful. Those who oppose abortions are considered fanatics—"right-wing reactionaries" is a favorite epithet—and our insistence that fetuses are human beings is pooh-poohed constantly.

If one believes that it is all right to abort fetuses at will, it is likewise all right to assume that the aborted "thing" is not human. That is the logic, for want of a better word, employed by the abortion proponents.

But once one admits that a fetus can emerge alive from the abortion procedure—and this happens with alarming regularity—must it not also be admitted that the fetus is a human being? To the abortion lobby the answer, obviously, is no.

The abortionists and their supporters make an absolute distinction between fetal life and infantile life, and manifest a (to me) amazing tender-mindedness about little children who are allowed to come to term while simultaneously denying to fetuses any of that compassion. Somehow, seven to nine months in the womb makes the fetus a human being, but less than seven months makes the fetus merely an object, to be dealt with as one would with one's appendix.

The question arises: how does one properly decide the cut-off point between humanity and thing-ness? At the moment, those pushing for abortion on demand seem content to leave it at the Supreme Court's addled decision (26 weeks or less and the fetus can be aborted with no fuss from the law; 27 weeks and after, and the states can legislate as they wish); they insist on aborting as many fetuses as they can get their hands on.

But in accepting that cut-off point, if it is not wholly tactical and something which in due course they will tidy up by pushing for an extension of the gestation period in which abortions are legal, are they not admitting that, say, a seven-month-old fetus is quite likely to become viable if aborted at that stage?

And once they have acknowledged that a fetus is a human life *sometime* before its full nine-month gestation period, where does their case for abortion go?

It goes, no pun intended, to seed. They would of course be happier if they could perfect their abortion devices so that *no* fetus emerged live from the operation. There would then be no messy problems to confront, given the Supreme Court's carte blanche for legalized killing of fetuses. But even medical science, supposedly devoted to *preserving* life, not to destroying life, has yet to work out a sure-fire way to obliterate every fetus's life while he is being aborted.

And so we return to Dr. Edelin and his colleagues—Doctors Leon Sabath, Leonard Berman, David Charles and Agneta Philipson—who must now find some way to justify what they are doing. Dr. Edelin will face a rather tough go of it should he be brought before a jury of his peers: The incontrovertible evidence is that the fetus in question was born live and that Dr. Edelin snuffed out that life in some manner.

Doctors Sabath, Berman, Charles and Philipson may get out of it by pleading that the obscure Massachusetts law really doesn't apply to medical researchers fiddling with fetal tissue. And they will likely have an easier time of it than will Dr. Edelin.

Yet however gruesome and saddening are the incidents, they do focus attention on the mass killing of hundreds of thousands of human beings under cover of law, that Supreme Court ruling which will likely go down in history as this tribunal's most infamous decision in modern times.

The problem for those who oppose this type of mass killing is compounded by the matter raised earlier, the division in conservative ranks. However reasonable the traditionalist-conservative position on abortion, it cannot carry the day against the liberal-radical alliance without the additional support of libertarians and disaffected liberals.

Passivity plays into the hands of the pro-abortionists: many people oppose abortion but do nothing about it, whereas the feticide lobby is constantly at work stressing the "humaneness" of abortion, insisting upon the woman's alleged rights to do anything she pleases with her body, even including destroying other human beings temporarily residing within her body.

Somehow, the liberal, however uneasy he may be about what he can easily learn about the proliferation of abortions even in the twilight zone between automatic death to an aborted fetus and possible viability after abortion, feels "liberation" and modernity require assent to the feticide position.

So it is as well with many, probably most, of the libertarians within conservatism. The same unwillingness to accept the clear-cut evidence of biology infusing the liberal mind on this matter, occasions in the libertarian an obduracy masquerading as respect for individual rights.

I would insist to my libertarian-conservative brethren that abortion is a special case, not easily absorbed into the general case for individual freedom. Quite simply put it is this: As all libertarians insist, one has no right to initiate aggressive behavior against innocents; fetuses, even though they must (at present) develop for some months in another person's womb, are the most innocent of all human beings, having committed no acts whatsoever except living; therefore, to kill a fetus is to commit precisely the most unjustified form of killing.

It is this that must be brought home to the libertarians within our ranks, else they will, in their enthusiasm for a maximization of the realm of individual decision-making, commit the absolutist error and refuse to make the critical distinction that separates feticide from other forms of activities which libertarians (such as this writer) believe an individual should be free to commit—on himself or herself.

The Boston incidents bring these issues immediately to the fore. They direct attention to the difficulty of creating some arbitrary cut-off point before which one can slaughter innocent fetuses: the Edelin case involves, and this deserves stress, a fetus born live, then subsequently killed. Dr. Edelin is charged with manslaughter, technically not "murder," but to the layman a form of murder nonetheless.

To bring more people around to the pro-life position, publicity must be given to the Boston scandals. Encouragement also must go to those congressmen supporting various proposed constitutional amendments forbidding abortions. Sen. James Buckley (C.-R.-N.Y.), Rep. Lawrence Hogan (R.-Md.) and others are currently championing amendments along this line, and they will surely work for them more vigorously if they know that their constituents are willing to fight for such a change.

At bottom, the issue boils down to this: Is a fetus a human being or is he not? If he is a human being at any stage along the way from implantation to emergence from the womb, then biology insists that he is a human being from the earliest point, however odd or "non-human" he looks.

It is a national disgrace, this legal tolerance of the murder of innocents. There are Right to Life chapters in many cities and states and they need the support of citizens outraged at this situation. Publicists such as Arizona Right to Life officer Dexter Duggan, a libertarian and another of those who in recent years have helped inform this once pro-abortion writer of the error of his ways, work diligently to make information available to the general public.

The push will not be easy, nor is it assured of victory. Although the Supreme Court could in future rule contrary to its 1973 decision, this is unlikely so long as the present court sits. The ruling was seven to two, and it is unlikely that either Richard Nixon or any likely liberal successor will be appointing anti-abortion justices to the Supreme Court.

The amendment process is difficult and long in most cases. The concurrence of three-fourths of the states, following upon either initiative from several state legislatures or a two-thirds vote of Congress, is necessary for passage of any constitutional amendment.

The issue is still in doubt. Opinion polls indicate that the nation is at present nearly evenly divided on the matter. Much more educational work is needed, and there are pro-life groups and individuals everywhere doing it. What has surfaced in Boston in the past weeks is likely to generate more support for the anti-abortion position.

PUBLIC FINANCING OF POLITICAL CAMPAIGNS

HON. CLARENCE J. BROWN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 18, 1974

Mr. BROWN of Ohio. Mr. Speaker, the question of public financing of political campaigns has become one of the major issues facing Congress this year.

I recently received a poem which, I believe, lays out the controversy in succinct and direct language for those who do not care to wade through the mountains of arguments which have been made over the past few months by both proponents and opponents of public financing.

For those of my colleagues who want the briefest description of this matter and the shortcomings of public campaign financing, I offer it here for the RECORD:

PUBLIC CAMPAIGN FINANCING?

The Congress is presently trying to say
That your and my taxes should have to pay
For campaign expenses so candidates may
Tell us how to vote on Election Day.

Our taxes don't go to the guy we think best
We also are asked to pay for the rest.
How can we face an election with zest
When our taxes support some clown we detest?

This interesting, self-serving, cute little game
They play with our money now has a name—
"Campaign Reform"—but it could be mistaken
For "Look how the public is being taken"!

The present laws, if their strictures were heeded,
Would seem to be all of the law that is needed
To shield us from devious machinations
Of national political organizations.

THE 75TH ANNIVERSARY OF THE VILLAGE OF GLENVIEW, ILL.

HON. SAMUEL H. YOUNG

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 18, 1974

Mr. YOUNG of Illinois. Mr. Speaker, I would like to call the attention of my colleagues to the 75th anniversary of the village of Glenview, Ill. It has been said that the family is the cornerstone of the community, and the community is the cornerstone of the Nation. With cornertones like Glenview, the United States has an unparalleled foundation in the history of the world.

I would like to insert in the RECORD the following remarks about Glenview:

GLENVIEW, ILL.: "75 IN '74, WITH THE 'SPIRIT OF '76' "

This year, 1974, the Village of Glenview celebrates its 75th anniversary. It was 1899 when Glenview incorporated under the laws of Illinois. To mark the event, a Diamond Jubilee celebration was held from July 4 through July 6. The three days of activities were held in various parts of the village, but centered around Jackman Park and the adjacent village hall parking lot. Festivities included the Fourth of July parade, with the theme "75 in '74 with the 'Spirit of '76' ", a merchant's street sale in the center of the village, and performances by the Glenbrook South High School German Band, the Glenbrook South Master Singers, the Melodons (Notre Dame high school's jazz band), and the big band of Carl Sands. In addition, there were several game booths and concession stands to accommodate the throngs of people who attended the celebration. The plans and efforts put forth by the Diamond Anniversary Committee, including the crystal clear sky overhead, were well-received and appreciated.

The growth and development of Glenview began in the early 1800's, and has continued up to the present day. In 1837, following his military service at Fort Dearborn, Sgt. Joseph Adams established a general store in the center of what is now Glenview. A growth pattern, typical of the times, developed. Originally occupied by peaceful Indians and frontier farmers, the fertile land, forests and waterways brought others to the area. Many came from across the Atlantic Ocean and established themselves in Glenview. The names of numerous settlers are still well known today.

The Dewes family arrived from England in 1833 to farm the fertile lands. The Rugen family came to Glenview via Germany in 1852, and established the Rugen Stores, among other business and civic activities in which this family has been involved up to the present time. By 1899, the name of the village had changed several times, having been called South Northfield, North Branch, and Oak Glen. In 1895 the name "Glenview" was chosen by the local citizenry, at the suggestion of Hugh L. Burnham, who was to become the first president of the village.

The population growth of Glenview has been gradual, except for occasional "boom" periods. Originally, the village consisted of approximately 350 inhabitants, which number surged higher whenever the Chicago river overflowed its banks. Fears of cholera, diphtheria and other epidemics caused people to move out into less crowded surroundings. By 1950 the population had climbed to 6,142. During the past quarter century, that number has skyrocketed, jumping nearly fivefold. Today it stands at nearly 30,000.

Following the Great Chicago Fire of 1871, the Milwaukee Road put in a set of railroad tracks to haul timber and supplies for reconstruction of the city. Twenty years later, another track was added, in anticipation of the greater traffic for the 1893 Columbian Exposition. In 1903 a telephone exchange was installed in Glenview. Gas and electricity came in 1910, and a volunteer fire department was organized in 1911. One year later concrete sidewalks were poured to replace the wooden ones, and during 1916, water service was added. All of these occurrences in addition to the opening of Edens Expressway (a 4-lane, limited access highway to Chicago) in 1952, added to Glenview's appeal as a convenient, accessible, yet pleasant community.

Congratulations are in order to Village President Ed Patten, Paul Thomas, chairman of the Diamond Jubilee Committee, the Glenview Area Historical Society, the Glenview Chamber of Commerce, and the many citizens of Glenview for all of their efforts put forth in making the Diamond Jubilee a memorable event. A great deal of community spirit and involvement went into making the celebration a success. Glenview has seen seventy-five years of growth and success.

"75 in '74, with the 'Spirit of '76' " is an especially appropriate slogan for a great community Glenview.

SURFACE MINING CONTROL AND RECLAMATION ACT OF 1974

HON. JOHN P. MURTHA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 18, 1974

Mr. MURTHA. Mr. Speaker, I submit herewith an amendment I intend to offer to H.R. 11500, the Surface Mining Control and Reclamation Act of 1974. This amendment would add representatives of working miners to the advisory commission, giving it some important lay input, often providing practical and important information.

Amendment to title VII, section 810 (a) (6) of H.R. 11500 the Surface Mining Control and Reclamation Act of 1974 offered by Representative JOHN MURTHA, Democrat of Pennsylvania:

On page 302, line 19, after the word "research." change the period to a comma and add the following, "two of whom shall be representatives of working coal miners."

IN THE NAME OF FREEDOM

HON. ROBERT F. DRINAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 18, 1974

Mr. DRINAN. Mr. Speaker, the debate continues over the plight of Jews in the Soviet Union and what role the United States should take on their behalf. This debate will not be silenced and its urgency not diminished until these and other peoples obtain the basic human right to emigrate in the face of persecution.

Mr. Speaker, I commend to my colleagues the following commentary, written by Mr. Robert E. Segal which appeared in the July 4, 1974, Jewish Advocate. In his thoughtful remarks, Mr. Segal expresses a hopeful point of view in his analysis of the positions of several leaders associated with the issue of Soviet Jewish emigration. Mr. Segal was for more than two decades the dynamic and able director and administrator of the Jewish Community Council of Greater Boston.

The article follows:

IN THE NAMES OF FREEDOM

(By Rogert E. Segal)

Litinov, Panov, Sakharov.

Three Russian names currently in the news as efforts intensify the world over to set on the path to freedom the feet of thousands more who desire to leave the Soviet Union.

Kissinger, Jackson, Rockefeller.

Three American names currently in the news, related to the same effort.

Each with a different story.

Then add the name of the universal man, Elie Wiesel, who has come down the tragic years as a bewildered Jewish child in a concentration camp during World War II unto manhood rich in the power to move the consciences of those who only now are beginning to comprehend the scope of the drama of Exit from the Soviet Union.

Litvinov: Grandson of Josef Stalin's foreign minister, Maxim Litvinov, the 33-year-old chemical engineer, Pavel M. Litvinov, has emerged from the Soviet Union after having passed four years in Siberian exile for his role in the 1968 Red Square protest against the Soviet invasion of Czechoslovakia. In Litvinov's impassioned appeals in Vienna, Rome and New York for more vigorous moral support for Russian dissenters, he raises a cry reminiscent of Hermann Rauschning's warning to the west during Hitler's leap to power.

Panov: One of the world's greatest ballet dancers, Valery Panov aroused a large segment of artists in many fields to action on behalf of his effort and that of his courageous wife, Galena, to win egress from the Soviet Union and to expose Russian bureaucracy's interference with artistic freedom. The fight is won. They are now in Israel.

Sakharov: Still another valiant Russian dissenter, Andrei Sakharov has cried out to the world "with respect and hope" for an unrelenting battle against the Russian harassment of honest writers and against obstacles placed in the way of free emigration.

Kissinger: The American Secretary of State continues to insist that Russia must have favored status in trading as he juggles the touchy alternatives for securing peace in the Middle East. Can he heed Sakharov's touching reminder that "external detente is tragically not accompanied by an internal and human detente?"

Jackson: The Senator from Washington pursues tirelessly his honorable and heroic campaign to deny trade concessions to the USSR unless it lifts the barriers to free emigration.

Rockefeller: Our trade relations with the USSR must have a higher priority in the view of David Rockefeller, chairman of the Chase Manhattan Bank. Secure in his own world of finance, Mr. Rockefeller moans that more heat than light is being generated by current discussions of Soviet treatment of Jews. And then his footnote: Americans would not tolerate the Soviet Union's interference in U.S. internal affairs in the course of negotiating trade relations.

Little wonder we need the voice and pen of Elie Wiesel again. In his play, "The Madness of God," he portrays as only Wiesel seems able these days, the reality and enormity of the USSR's perverse coercion of Jews.

Ever since the middle 1950's the Jewish community of America has been trying to save and bring to freedom the third largest Jewish populace in the world—the Jews resident in the Soviet Union. By pageantry and public appeal, by mass gatherings and seminars, by dramatic use of the media, a constantly growing committee-at-large has persistently drummed on the call to a hard-to-achieve liberty. In 1973, the Jewish emigration from the USSR reached the gratifying total of 35,000. But now the wave is ebbing even though 120,000 more Russian Jews have applications to emigrate pending or have been denied permission.

More honor, then, to those hundreds in America and in many other lands who maintain the needed campaign of rescue.

ADMINISTRATOR RUSSELL E. TRAIN OF THE ENVIRONMENTAL PROTECTION AGENCY JOINS IN SUPPORT OF LEGISLATION TO SAVE THE NEW RIVER

HON. WILMER MIZELL

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 18, 1974

Mr. MIZELL. Mr. Speaker, for some time the Environmental Protection Agency has expressed concern on the fate of the free flowing and historic New River in North Carolina and Virginia. In 1971, the Agency began an independent review of the Blue Ridge power project which would destroy this river and in comments to the Federal Power Commisison raised serious questions on the project itself.

This week, the Administrator of the Environmental Protection Agency, the Honorable Russell E. Train, wrote me a letter indicating his personal support as well as that of the EPA for legislation that I have introduced which will provide for a study of the New River as a potential component of the national wild and scenic rivers system.

I would like, at this time, to insert in the RECORD the letter and enclosures from Administrator Train. With this endorsement, Mr. Train joins with the U.S. Senate and the House National Parks and Recreation Subcommittee in support of legislation which will save the New River.

JULY 15, 1974.

DEAR MR. MIZELL: In response to your request for the views of the Environmental Protection Agency on H.R. 11120, EPA strongly supports the proposal for study of the New River for potential inclusion in the National Wild and Scenic Rivers system.

On November 30, 1973 EPA transmitted its comments to the Federal Power Commission on the latter's final environmental impact statement of the Blue Ridge Project, and I attach a copy of the report for your information. In particular, I invite your attention to the following paragraph of our comments, appearing on page 2 of our letter:

"An unavoidable adverse effect of the project is the elimination of a free-flowing river reach which has excellent water quality and is of high value for recreation and other human uses. As the activities of EPA and of other agencies tend, with passing time, to increase the supply of readily accessible, high quality flat-water expanses suitable for recreation, the outstanding flowing water resources will become progressively more scarce and valuable. In this regard, the upper New River is even now highly valued by a numerous and diverse public, as witness the roster of intervenors in the FPC proceedings. Our concern to preserve high quality waters and their associated environments for the use of future generations encourages us to favor the continued availability of these valuable areas in their natural condition and to approach an irretrievable commitment of such resources with extreme caution. We suggest that the possibility of preserving this outstanding river reach by developing alternative pumped storage site merits serious further study.

Thus, the potential adverse environmental impacts of the proposed impoundment, particularly the permanent loss of this major remaining free-flowing river in the East, makes the study authorized by H.R. 11120 an urgent need.

The Office of Management and Budget has advised us that there is no objection to this position from the standpoint of the Administration's program.

Sincerely yours,

RUSSELL E. TRAIN.

NOVEMBER 30, 1973.

DEAR MR. NASSIKAS: On April 9, 1973, EPA filed comments with the FPC on the draft environmental impact statement for the Blue Ridge Project. We found that the draft statement contained insufficient information for us to evaluate adequately the environmental effects of the project. The information needed was described in our detailed comments.

Subsequently and in accordance with Section 309 of the Clean Air Act of 1970, we have reviewed the final environmental impact statement for this project dated June, 1973. In general, we found that the final statement did not fully meet our needs for substantial additional information on environmental effects as requested in our comments. For that reason, there remain potential environmental consequences which we cannot evaluate. However, we are in a position to form some definite conclusions regarding certain specific features of the Blue Ridge Project, and we feel that these conclusions will be pertinent to the Commission's consideration of this licensing action.

In particular, we find that certain significant adverse environmental effects may result from this project, and thus we have strong reservations concerning its acceptability from an environmental standpoint. Some of the effects discussed below can be mitigated by changes in the project design and implementation. However, a basic environmental concern—the commitment of a high quality free-flowing stream to impoundment—would be an unavoidable consequence of proceeding with the proposal.

Effects of the project as proposed include possible adverse impacts on reservoir water quality resulting from inadequate regulation of shore development, the possibility of stimulation of unwise use of flood plains downstream from the project and the likelihood of stream channel erosion and adverse impacts on stream biota due to extreme fluctuations in river flow caused by reservoir releases. In our opinion, however, these possible effects could be partially or completely avoided by adopting appropriate precautions prior to reservoir construction.

An unavoidable adverse effect of the project is the elimination of a free-flowing river reach which has excellent water quality and is of high value for recreation and other human uses. As the activities of EPA and of other agencies tend, with passing time, to increase the supply of readily accessible, high quality flat-water expanses suitable for recreation, the outstanding flowing water resources will become progressively more scarce and valuable. In this regard, the upper New River is even now highly valued by a numerous and diverse public, as witness the roster of intervenors in the FPC proceedings. Our concern to preserve high quality waters and their associated environments for the use of future generations encourages us to favor the continued availability of these valuable areas in their natural condition and to approach an irretrievable commitment of such resources with extreme caution. We suggest that the possibility of preserving this outstanding river reach by developing alternative generating facilities and/or an alternative pumped storage site merits serious further study.

With respect to the air quality aspects of the Blue Ridge Project, insufficient information exists in the final statement for EPA to concur with the FPC staff conclusion that the proposed action will result in less air pollution than the next most-economical alternative. Such a conclusion would have to be drawn from a much more complete analysis of alternative methods of generating the required peaking power, over both the short and long terms. The project will allow maintenance of or an increase in the utilization of existing coal fired plants, which will continue to have significant emissions even if State air implementation plans are met. An alternative of installing new generating capacity which must meet more stringent new source performance standards and utilizing an older unit for peaking capacity might well result in less air pollution and overall fuel consumption than the mode of power generation which encompasses the proposed pumped storage facility.

We are most appreciative of this opportunity to provide our views for consideration by the Presiding Administrative Law Judge. Detailed comments have been prepared for enclosure with this letter which set forth our reasoning and outline needed precautionary measures in somewhat greater detail.

Sincerely yours,

JOHN R. QUARLES, Jr.,
Deputy Administrator.

DETAILED COMMENTS ON FINAL ENVIRONMENTAL IMPACT STATEMENT FOR BLUE RIDGE HYDROELECTRIC PROJECT

I. FLOOD CONTROL STORAGE BENEFITS

In reformulating the project to eliminate water quality storage, the flood control storage was increased from 160,000 to 346,000 acre-feet (an increase of 186,000 acre-feet). This was done despite the fact that the lesser amount appears already to provide enough storage to control 72% of the damages of a flood of 3500 years recurrence time (FEIS, pp. 35 and 47). The utility of the additional storage is not convincingly documented in the final statement despite its incremental costs of 200 acres, 37 homes and $1.7 million (to alleviate damages estimated (1967) at approximately $658,000).

II. ADVERSE EFFECTS WHICH COULD BE AVOIDED

If, after full consideration of all factors, it is considered necessary for the Blue Ridge Project to proceed at its proposed site, the project could and should be modified to avoid several adverse environmental impacts implicit in the present proposal. EPA's recommended modifications are as follows:

1. Adverse effects from private development of recreational facilities

Although the applicant is required to acquire control of the immediate shoreline of the proposed reservoirs, the potential of such control to insure optimal recreational development compatible with environmental protection will evidently not be utilized. Unrestricted private development of recreational and second homes along the shoreline and of commercial facilities to service recreational use of the reservoirs have the potential to degrade the scenic value of the reservoirs and to lead to water contamination from on-site sewage disposal. This is especially true since it is known that soil and slope characteristics may, in some areas, be unsuitable for such sewage disposal (FEIS, p. 362).

It is vital in any such project to coordinate local land use plans and zoning ordinances with the recreational development plans of the applicant, as overseen by the FPC, and of the States. The ultimate control by the FPC through the applicant's actions in acquiring and administering project lands could be used to reinforce State and local implementation of a previously agreed-on comprehensive recreational development plan for the reservoir area.

Should the Commission determine that Blue Ridge is to proceed, we recommend specifically that a comprehensive recreational development plan be drawn up, which incorporates the proposed State parks, the facilities to be provided by the applicant and those private residential and commercial developments compatible with optimum recreational use of the reservoirs. In our opinion, such a plan should be based on an adequate environmental inventory, and thus its preparation will require professional assistance. The applicant should assist the States and affected municipalities in financing the necessary work. The plan should regulate shoreline use as stipulated in the comments of the Department of Interior (FEIS, p. 314), provide for use-zoning of the reservoir shore and incorporate cluster development as advocated by the FPC staff (FEIS, p. 45). Where practicable, it should also incorporate the restrictions on reservoir use necessary to avoid objectionable noise or other degradation of the reservoir and surrounding environment (FEIS, p. 52).

In addition, commitments should be secured from the affected governmental units to implement the recreational plan. To the extent that such commitments cannot be secured, easements or fee ownership should be secured by the applicant adequate to preclude violation of the basic provisions of the plan.

Regional development goals, including proposed industrial development and population trends, and the manner of provision of necessary municipal services, should be fully integrated with this plan. The proposed highway relocations should also be incorporated into the plan as they will both affect and be affected by many essential features of the regional development patterns and the recreational use of the Blue Ridge reservoirs.

2. Flood-plain development

Flood control should be considered as part of a comprehensive flood damage prevention program which also incorporates regulation of flood-plain use. In particular, prior to provision of structural flood control measures, commitments should be secured from affected counties and municipalities to institute flood-plain zoning and to participate in the Federal Flood Insurance Program. Unwise development of the flood plains may lead to increased flood damage despite the decreased flood stages as regulated by the proposed project. Such commitments should be secured from all affected local governmental units as far downstream as the Bluestone reservoir. These commitments should be obtained prior to construction, and the incorporation of flood control storage in the project can be made contingent on acquisition of commitments to flood-plain zoning. This will provide an incentive for the affected local governments to participate in the overall program, and may also help alleviate further the need for the additional 186,000 acre feet of flood control storage discussed above.

3. Downstream erosion

The State of Virginia has pointed out that hydroelectric generating releases from the lower reservoir will exceed the bank-full channel capacity, resulting in increased erosion of banks and channel bottom (FEIS, p. 372). The widely fluctuating flows below the project could be a hazard to recreationists, adversely affect the natural qualities of the stream, and have unspecified and potentially adverse effects on aquatic and terrestrial biota. We recommend that the peak flows be regulated so as to depart so drastically from the natural flow regime. Fluctuations should not exceed those which can be demonstrated to be compatible with channel stability and the protection and propagation of an abundant and balanced population of indigenous aquatic life. Documentation of the effects of proposed fluctuations should be available prior to finalizing license conditions.

III. UNAVOIDABLE ADVERSE EFFECTS: INUNDATION OF THE UPPER NEW RIVER

Even if mechanisms are fully implemented to mitigate the possible detriments cited above, it can be effectively argued that the Blue Ridge project may still entail major adverse impacts on the environment in that it would eliminate a major environmental resource of marked scenic, and recreational and biological value, the upper New River, and replace it with a flatwater expanse having questionable biological productivity.

The fundamental effect of a reservoir project is to replace a flowing stream with a flatwater expanse. Thus, a basic issue which must be addressed is the comparison of the relative scarcity and value of the two environmental resources, stream and reservoir. This is a topic in which EPA has a vital interest because it is intimately related to our own mandate under the Federal Water Pollution Control Act to protect and enhance water quality and provide for a range of associated uses such as recreation and the propagation of aquatic life. Resources committed to maintaining and enhancing water quality are motivated by the values perceived in such uses; in turn these values are very much affected by their relative availability, abundance or scarcity.

EPA's mandate encompasses not only clean-up of waters that have been polluted but maintenance of existing waters of high quality and biological productivity. Furthermore, we note that over a period of time, and partly due to our own pollution control activities, the inventory of good quality flatwater expanses is expected to increase. In addition to widespread availability of multipurpose reservoirs, most large metropolitan areas immediately adjoin extensive flatwater areas—estuaries, broad rivers, or lakes. Although existing pollution restricts the range of water uses in those waters immediately adjacent to the major population centers, it is a primary goal of EPA's (and the States') regulatory activities to make such areas suitable for many diverse uses contributing to human welfare. Thus these immediately accessible flatwater areas will be available for a wide variety of recreational pursuits. Bringing new recreational opportunities to the people, rather than accelerating development of recreational facilities in remote areas, has been a major goal of this Administration, and is even more pertinent in view of the current fuel shortages.

Our appreciation of these trends leads us to believe that broad water expanses suitable for recreation will become progressively less scrace as time passes. On the other hand, high quality natural rivers, of which we possess a limited number, are becoming relatively less abundant and more valuable. On this point, the State of North Carolina has emphasized in its comments the unique value of the upper New River and the lack of uniqueness of the reservoir which would take its place. Other comments have made the same point, and these have not been rebutted by the FPC staff. We believe the possibility of preserving this outstanding river reach by developing alternative generating facilities and/or an alternative pumped storage site in an area where the destruction of natural values would be less significant merits serious further study.

IV. AIR POLLUTION

The final impact statement has not adequately demonstrated that the proposed project would result in less air pollution than the next most-economical alternative. In particular, we question the conclusion that, over the lifetime of the project, a power generation system utilizing pumped storage capacity at Blue Ridge would emit less air pollution than an alternative scheme with incremental coal-fired base load capacity. Our reasoning is as follows:

First, it appears that the air emissions were not calculated directly. The cost of the fuel burned in alternative schemes was compared and used as a surrogate for a direct estimate of SO_2 or particulate emissions. However, different generating stations in the system probably pay widely different amounts for fuel. Since the fuels they burn also have widely different sulfur content, this should proportionately affect their SO_2 emissions. In general, one expects sulfur content to be inversely related to fuel cost, depending on location, so that a system's expense will not properly reflect SO_2 emissions. For example, a generating scheme which minimizes fuel cost will tend to maximize SO_2 emissions.

Second, it appears that no account was taken of the fact that new generating stations must meet stringent new source performance standards whereas existing units may continue to operate subject to much less stringent requirements under the State air implementation plans. As the Blue Ridge project could require the utility to operate existing power units more of the time, air quality could be adversely affected. The alternative, of course, would have them operate older units less of the time and use an additional baseload or cycling unit for peaking power.

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U.S. ARMS POLICY FEEDS SOVIET HAWKS

HON. ROBERT L. LEGGETT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 18, 1974

Mr. LEGGETT. Mr. Speaker, sometimes I am happy to read what columnist Victor Zorza has to say, and sometimes I am not. But in either case, the fact is his track record for correct predictions and correct analyses is very near 100 percent, and I believe we must evaluate his credibility accordingly.

His recent column should give pause to anyone who believes we gain national security when we escalate our spending on strategic weapons beyond our national security requirements. It is frequently said that military spending as such "sends the Soviets a message" and discourages them from accelerating the arms race.

On the contrary, Mr. Zorza argues, based on his excellent knowledge and understanding of Soviet affairs, that massive U.S. strategic weapons programs strengthen the extreme Soviet hawks, sometimes to the point where they overthrow the moderates. The hawks then begin their own massive programs, which stimulate equivalent U.S. programs, and so forth. Mr. Zorza pictures Marshal Grechko and Senator JACKSON as inadvertent partners as were John Kennedy and Khrushchev before them in a never-ending spiral of unnecessary military spending.

I would not for a moment suggest that we simply cut back our own programs for the purpose of inducing the Soviets to follow suit. But it seems clear that our best strategic weapons policy consists of buying what we need to meet real military threats, and resisting the temptation to "keep up with the Joneses" for the sake of competition. If we do this, there is an excellent chance the Soviets will feel less need to keep up with us, and will be more inclined to respond to their popular demand for consumer goods. Many of us in the Congress tried to stop MIRV 3 years ago. It is ironic that Kissinger and Nixon now return with empty SALT agreements from Moscow because MIRV is too complicating.

I insert in the RECORD Mr. Zorza's column from the Washington Post of July 2, 1974:

KREMLIN POLITICS AND MILITARY SPENDING

(By Victor Zorza)

On his way to the Moscow summit Dr. Kissinger explained, not for the first time, that the United States and the Soviet Union can "destroy human life in a matter of days" and "end civilized life as we know it."

But in Moscow this is very much a matter of debate. The Brezhnev faction argues that the threat to civilization is real, but the more militant faction insists that it is the imperialist aggressor who would be "routed," utterly and decisively, in a future war.

This argument, usually found in the Soviet military press, is countered by Brezhnev's spokesmen. Yes, says an article in the government paper Izvestia without, of course, mentioning the military—"the aggressor would be crushed, but at what cost?"

Dr. Kissinger believes that in Washington too "a fundamental debate is inevitable" about the future of detente, and that it will involve "fundamental questions of national survival and the future of humanity." These are in fact the terms on which the Kremlin's own debate has been conducted. Some Soviet leaders argue that "national survival" requires bigger and better weapons. Others maintain that the "future of humanity" could be assured only by arms reduction.

In Moscow the more militant faction argues that the weapons are necessary lest someone like Sen. Henry Jackson (D-Wash.) should ever become President and threaten the Soviet Union with annihilation. To the extent that Marshal Grechko manages to get wheat he wants from the Politburo, Jackson can argue that the Soviet Union is posing an increasing threat to the United States, which justifies the arms buildup advocated by Secretary of Defense James Schlesinger. And so it goes.

It is precisely because there is nothing new in this action-reaction pattern, which became established almost as soon as nuclear weapons appeared, that Kissinger's warnings about the end of civilization seem to have a hollow ring. The cry of "wolf" has itself become part of the pattern.

The first Kremlin debate about "the death of civilization" came to the surface in the middle fifties, soon after the death of Stalin, when it became an issue in the struggle for the succession. Nikita Khrushchev was trying to wrest the leadership from Premier Georgi Malenkov. It was Malenkov who maintained then that the threat to mankind posed by nuclear weapons made it necessary for Russia to abandon the confrontation politics of the Stalin era. Khrushchev denounced Malenkov's disarmament plans as something akin to treason, and got rid of him—with the help of a grateful army.

For several years Khrushchev went on paying off his debt to the military, but finally he rebelled against their insatiable demands and embraced the very policy for which he had overthrown Malenkov. By this time, however, he had created the appearance that Russia's nuclear missile might was greater than that of the United States. It was John F. Kennedy who now raised the cry of the "missile gap" against the Eisenhower administration, and used it as an argument against the election of Richard Nixon—much as Khrushchev had use a similar argument to overthrow Malenkov.

The Kennedy arms buildup which followed made it possible for the Kremlin hardliners to insist by the mid-sixties that Khrushchev should divert far greater funds to defense. When he refused, he was overthrown by Brezhnev who began—as Khrushchev had done—by giving the military what they wanted, only to find that they always wanted more and more.

As the mid-seventies came into view, the wheel once again came full circle, and now it is Brezhnev and the military, supported by some of the politicians, who are locked in debate. Again the debate is ostensibly about "the death of civilization," but actually about the Soviet arms program for the next 10 years.

The reptitive pattern suggests the emergence of a law of international politics which may appear to govern East-West relations. The lead time for the creation of modern weapons systems is about 10 years—and every 10 years or so the Kremlin is torn by a power struggle in which the more militant faction manages to rout those opposed to greater arms spending. The winners authorize new arms programs, but in time begin to work for arms reductions and East-West accommodation, only to be overthrown in turn.

The only way to understand the politics of the Kremlin is to follow this debate, reconstructing it from the few signs that emerge now and again—much as we have to follow the open political debates in the West to understand what our own leaders are up to.

U.S. politicians who press for bigger arms programs provide the ammunition which Soviet hawks need to win power in the Kremlin. And Soviet hawks provide the ammunition which U.S. politicians can use—from John Kennedy to Henry Jackson—to win elections at home. The operation of the law transcends the East-West boundary, and the unwitting cooperation between the two sides fuels the arms race.

DAIRY IMPORTS

HON. HAROLD V. FROEHLICH

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 18, 1974

Mr. FROEHLICH. Mr. Speaker, a strong, healthy domestic dairy industry is important both to America's dairymen and to consumers who rely on high-quality protein foods such as cheese and milk. Unfortunately, our dairy farmers are going through a very hazardous period marked by rapidly increasing costs, dramatically falling prices for manufactured products, and growing consumer skepticism because low wholesale prices are not reflected in the grocery store.

Current trends in the dairy industry do not bode well for farmers or consumers. Milk production in June was down for the 21st consecutive month from the previous year. Wholesale cheese prices have dropped 20 percent from a recent peak to below the support level. Cheese in storage has increased 153 million pounds since last year. Some dairy manufacturers are closing their doors and others are refusing to accept fluid milk from dairy farmers. And of great significance to farmers and consumers alike, millions of pounds of imported dairy products are entering the country over and above the established quota levels, while health and sanitation inspections have dramatically decreased over the past year.

In fact, the systematic increase in dairy products imports over the past few years has helped to create the crisis situation facing the dairy industry today, has threatened the reputation of American dairymen who are known for their high-quality standards, and continues to pose a menace to the health of consumers. It is clear that, in both quantity and quality, dairy imports are partly responsible for the problems the dairy industry must contend with in the United States.

Among other things, dairy producers have launched significant self-help programs in research and promotion to provide products suited to the many needs of American consumers and to educate the public on the nutritional values of

milk and milk products. But dairy farmers cannot contend with unfair and unwarranted Government policies regarding imports.

It is imperative that this Congress take action to better protect farmers and consumers from a flood of unsanitary and unhealthy dairy product imports. While the Subcommittee on Dairy and Poultry of the House Agriculture Committee has held hearings on the Foreign Dairy Quality Act to establish this protection, no specific action on the bill has been taken. I strongly urge the subcommittee to continue its positive efforts to better protect consumers and farmers from imported dairy products. As the following editorial from Hoard's Dairyman points out:

Not only are these imported dairy products jeopardizing our markets, but, without similar requirements for imports, they jeopardize the health of our consumers.

The editorial follows:

EUROPE'S BUTTER MOUNTAIN GROWS AS U.S. DAIRY PRICES FALL

The recent decline in the farm price of milk, coupled with falling prices of cheese, butter, and powdered milk, make D. R. Strobel's report on world dairy supplies (page 765) even more alarming. On the domestic scene, the current dairy outlook is rather bleak. Higher retail milk prices have caused, and may continue to cause, lower milk consumption. Retail dairy prices in March were 25 percent above the year before and continue to rise. Fluid milk sales in major urban markets are running 5 percent below a year ago.

Cheese is in a "disastrous market situation." Wholesale cheese prices have been skidding weekly for the past several weeks and warehouses are bulging. Spokesmen for the cheese industry report that cheesemakers making and storing cheese in the popular 640-pound barrel and block styles are out of containers and cannot buy any more.

More than 401 million pounds of cheese is now in storage, that is 153 million pounds more than on the same date last year. Included in storage is some of the 99 million pounds of cheddar cheese imported by presidential proclamation during the first three months of this year.

With butter prices falling to support levels, CCC recently purchased 1.6 million pounds of butter under the price support program. This makes a total of 1.9 million pounds since April 1.

Lower fluid milk sales have resulted in heavier powder production and powdered milk prices have dropped sharply. Powdered milk buyers reportedly are reluctant to take on U.S. milk powder ahead of additional imports.

Meanwhile, U.S. milk production continues down. April output was off 2.3 percent from a year ago, marking the 19th consecutive month that production was below that of a corresponding month a year earlier.

In the European Community (EC), support levels are $7.34 per hundred for milk; 96.3 cents per pound for butter; and 43.2 cents per pound for nonfat dry milk. As Mr. Strobel points out, the original intent in the EC was to raise the target price for milk to just $7.07 per hundred and to lower the support price for butter. However, producer groups pushed for higher support levels to compensate for their higher costs, and they were successful.

It is significant to note, too, the extent to which the EC has subsidized its butter into export. The EC butter price in Beirut, Lebanon, was 45 cents per pound compared with the support price of 96.3 cents according to Strobel.

As Europe's dairy production increases, there will be continuing pressures for the U.S. market to take more dairy products. It is difficult to understand the rationale for our continuing imports of dairy products when one studies the current dairy situation in this country. It is even more incomprehensible when routine sampling of the imported products reveals penicillin, insect larva, benzine hexachloride, and other substances not permitted by domestic standards. Currently, only 10 percent of imported dairy products are inspected, and about 12 percent of the inspections have revealed the product unfit for human consumption. Yet the administration turned down legislation designed to require stricter inspection.

There are reports that USDA animal health authorities may move to block future shipments of powdered milk containing viruses of the dreaded hoof and mouth disease. Ironic as it may seem, federal regulations now ban the use of powdered milk from countries not free of the disease of animal feed, but it is allowed for the feeding of humans because they are not susceptible to the disease.

The fear is, of course, that a processor may use this powder in animal feed, should something make it unfit for humans. Last year, 23 percent of the powdered milk consumed by Americans was imported, much of it in the baking industry.

Having double standards for dairy products, depending on where they are produced or manufactured, makes no sense whatever. Not only are these imported dairy products jeopardizing our markets but, without having similar requirements for imports, they jeopardize the health of our consumers. It's high time legislation is passed that would require foreign dairy farms and dairy manufacturing plants to meet sanitation and inspection standards comparable to those imposed on the United States dairy farmers.

OPPOSE SALE OF POLICE EQUIPMENT TO THE SOVIET UNION

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 18, 1974

Mr. ASHBROOK. Mr. Speaker, recently there have been reports of the United States selling to the Soviet Union the most modern equipment for bugging, night photography, and other such devices for "personal surveillance." With the testimony of literally scores of Soviet dissidents and other experts on oppression by Soviet officials, it is unbelievable to me that our Government would allow the sale of such equipment. I cannot understand why the U.S. Government would help the Soviets and the Soviet secret police terrorize their own population.

In the "Gulag Archipelago," Solzhenitsyn has explained in great detail the nefarious activities of the so-called Soviet system of justice. Under this system people are arrested, interrogated, and tortured for committing no crimes at all. Is the United States now going to make that system even more modern and efficient? The United States would prove it is morally bankrupt if it allows such a sale of sophisticated police equipment to go through.

The text of the article entitled "Soviet Police Seek U.S. Gear" from the July 18, 1974 Washington Post follows:

SOVIET POLICE SEEK U.S. GEAR

(By Richard T. Cooper)

It sounds like sending hot coals to Newcastle, but American firms may soon begin selling Russian police the latest equipment for bugging, night photography and other devices for "personal surveillance," unless the federal government intervenes.

Secretary of Commerce Frederick B. Dent confirmed yesterday in Senate testimony that his office is holding discussions with the State Department on whether to allow such export sales.

The Soviet Union has invited a number of U.S. companies, considered manufacturers of the world's most sophisticated voiceprint analyzers, lie detectors, identification systems, surveillance devices and similar gear, to exhibit at a Moscow trade fair next month.

Dent, in an interview after his Senate appearance, said U.S. government permission is not required for companies to show their wares at the show.

To negotiate sales at the show and then ship such equipment to Soviet police agencies, however, would require licensing by the Commerce Department's Office of Export Administration, he said.

News of the Soviet invitations, and favorable responses from a number of U.S. firms, has spread slowly during the past 10 days, provoking surprise and opposition in Congress and elsewhere.

Sen. Henry M. Jackson (D. Wash.), whose Permanent Subcommittee on Investigations has begun taking sworn statements from equipment makers, described it as "an outrage" to supply devices that Soviet police could use to tighten control over minorities and dissenters.

The subcommittee voted yesterday to have Jackson contact the Administration and request that no equipment be permitted to be shipped while the issue is being debated. The matter will also be taken up at a closed-door hearing Friday, the subcommittee decided.

Rep. Charles A. Vanik (D-Ohio), who wrote to Dent and Secretary of State Henry A. Kissinger last week requesting information on the government's position, said yesterday, "I'd hate to have weapons of oppression in the Soviet Union or any other country carry the marks 'Made in America.'"

"I'm for detente and I'm for trade, but this equipment could be used for the suppression of dissent and minorities," Vanik said.

"It would be like exporting gas chambers to Hitler," Vanik said. He cited passages from the work of Nobel Prize-winning Soviet writer Alexander Solzhenitsyn, now in exile, in which Soviet secret police are portrayed as desperate to get voice analyzers and night photography devices comparable to those made in the United States.

Sen. Frank Church (D-Idaho), before whose Subcommittee on Multinational Corporations Dent testified, said afterward. "Naturally I'm opposed to the transfer of this type of technology. It's preposterous."

During the hearing, Church appeared surprised when Dent referred to the issue. "We certainly can't instruct the Soviets on police work. They ought to be experts on that," Church said, but Dent told him in such things U.S. technology is well ahead.

Dent indicated the discussion inside the government is focusing on whether the export of such equipment would be consistent with U.S. foreign policy.

In general, Dent said, the administration feels promotion of trade supports detente and reduces the risk of war. In certain areas, including military security and some foreign policy considerations, however, exports to the Soviet Union are barred, he said.

EARL WARREN

HON. PHILLIP BURTON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 10, 1974

Mr. PHILLIP BURTON. Mr. Speaker, it was Euripides who said, "When good men die their goodness does not perish but lives though they are gone."

Earl Warren was a good man and his death saddens all of us who respected and admired this great civil libertarian and humanitarian.

He served this Nation as Chief Justice of the Supreme Court for 16 years. He left an indelible mark on the Court and on our Constitution.

While I was a member of the California State Legislature it was my privilege to introduce and have adopted a resolution commending Chief Justice Warren and expressing support of him at the time the organized Birch Society campaign against him was at its height.

On the occasion of his retirement 5 years ago I said on the floor of the House:

He has moved this Nation forward, lending the weight and prestige of his high office to the struggle for equal rights for all persons and has been an outspoken defender of the civil liberties guarantees of our Constitution.

His has been a life of public service spanning some 50 years. I join with my colleagues in honoring him today although his work and service do him greater honor than it is in our power to bestow.

Today, as we eulogize this giant of a man, we do so knowing that his place in history is secure and the chapter entitled, "The Warren Court" will refer to the golden era in the defense of individual rights.

The Washington Post on the occasion of his 75th birthday said:

Not since the formative days of the Republic when John Marshall presided over its deliberations has the Supreme Court played so dynamic a part in American affairs as during the dozen years since Earl Warren became Chief Justice of the United States. Great issues of individual rights, not yet ready for judicial decision in the first century and a half of the country's territorial and economic development, presented themselves inescapably for adjudication. A willingness on the part of Justices to meet issues when they become ripe for resolution * * * is really nothing more than a recognition of the Supreme Court's responsibility to serve effectively as guardian of a living Constitution related to current realities—and to serve especially as guardian of the spirit of liberty characterizing that Constitution.

The Nation has lost a patriot, a great jurist, and a good man. We extend to his family our sympathy.

Tributes to Earl Warren have come from all walks of life, from at home and abroad. I should like to share with my colleagues editorial tributes to Chief Justice Earl Warren which have appeared in newspapers in the San Francisco area:

[From the San Francisco Chronicle, July 11, 1974]

EARL WARREN OF CALIFORNIA

In tribute to Earl Warren it is being recalled that his great strength as Chief Justice of the United States from 1953 to 1969 lay in his capacity to bring the Supreme Court's fierce individualists together for their farthest-reaching, socially revolutionary decisions—the school desegregation case, the one-man one-vote cases, the rights of the accused cases.

While it is accurate to say that he was indeed a great judicial administrator, he was not the legal scholar that others on the Warren Court were, nor the legal stylist, nor even the initiator of the great ventures which carried the Court into new civil rights territory. But there was something about Earl Warren that glowed with humanity, integrity and fairness. It made his happily simple and direct language extraordinarily eloquent:

"Legislators represent people, not trees or acres," he wrote on the page he was proudest of, the Reynolds v. Sims decision of 1964 that struck down the malapportioned upper houses of just about every state capital in the country, including Sacramento, where he had made his name. "Legislators are elected by voters, not farms or cities or economic interests . . . the right to elect legislators in a free and unimpaired fashion is a bedrock of our political system."

Many lawyers and law professors regard the one-man one-vote cases as the Warren Court's outstanding achievement, reports Alan Barth in his book "Prophets With Honor," and Warren himself thought so too.

Californians have good reason to recall that during the war and early postwar years when Warren was magnificently serving this state as governor he was a champion of the then unequal representation system of the Senate. The fact that he came to boast of overthrowing the kind of geographically organized house he once approved of shows his capacity to grow and change. Once a tough prosecutor in Alameda county, he became the defender of enlarged rights and protections for the criminally accused, as the Gideon and Miranda cases testify.

The man who aspires to follow him to the California governor's chair, Houston Flournoy, applying the judgment of a political scientist, thinks that he "will be remembered as perhaps the most significant public figure in midcentury America." There are many—some of them still on the Supreme Court bench—who would agree with that.

[From the San Francisco Examiner]

EARL WARREN'S HISTORIC ROLE

Earl Warren, late Chief Justice of the United States, has an assured place in the pantheon of American leaders who wrought profound social and political change.

Twenty years after the event, the nation is still in the midst of the peaceful social revolution brought about by the Warren Court's unanimous racial desegregation decision of 1954. That decision was more than a landmark. It was a watershed, turning the nation toward new concepts of social justice, leading directly to the great civil liberties movement of the 1960s and changing the country's traditional institutions in a fundamental way.

To black Americans and many other minorities the decision was nothing less than a second Emancipation Proclamation, bringing millions of them into their country's economic and political mainstream.

The Warren Court's one man-one vote decision was cut to the same pattern, for it shifted political power to the urban masses at the precise time when urban concentration became the American way of life.

Earl Warren also led the Court in a series of 5 to 4 decisions expanding the constitutional rights of accused in criminal cases. We believed, and said here, that some of those decisions went too far. Indeed the Chief Justice Warren who wrote or concurred in those decisions was disagreeing with an earlier Earl Warren, for as a young and hard-driving district attorney of Alameda County he held different views. Lately the Supreme Court has tempered several of those Warren Court rulings.

The Warren Court decisions rarely met acclaim at the time, and some of them are still fiercely debated today. The fact remains, however, that Mr. Warren earned an enduring place in history because he and his colleagues gave new meanings to the Constitution to fit the compelling needs of a rapidly changing society.

Californians also remember him as a remarkably able, tough-minded and stubborn Governor of California—the only man they ever elected to that office three times.

A great American, ripe in years, has laid down the burdens of life.

[From the Sacramento Bee, July 10, 1974]

EARL WARREN, 1891–1974

We mourn a great American today. A strong and good man, a towering symbol of justice and human dignity, is gone. A rich and useful life has ended with the death of Earl Warren.

There are so many reasons to honor his name. Few before him have done so much for the people of this country in marshaling the forces of decency and fairness against the ugly presence of prejudice and intolerance. Few have left a more precious heritage in defense of the rights of the individual.

Behind the scroll of deeds stands the commanding figure of this self-made lawyer-son of Scandinavian immigrants, a man who never stopped growing. His vision broadened with age and experience each step along the way—from Oakland city attorney, to Alameda County district attorney, to state attorney general and unprecedented third-term governor of California, and finally, Chief Justice of the United States.

He grew, yes, yet throughout he remained the same plain, outgoing individual with unswerving principles. He liked people. And they liked him, whether as a fledgling clerk to a 1919 legislative committee in Sacramento; hearty, handshaking candidate; Republican nominee for vice president in 1948, or simply mingling with fellow sports fans at football and baseball games.

To each job he gave unstinting dedication and unswerving purpose. Americans saw that when he undertook the difficult task of heading the commission which investigated the assassination of President John F. Kennedy.

He inherited a sharply-divided and quarrelsome U.S. Supreme Court when he was appointed chief justice by President Dwight D. Eisenhower in 1953. His friendly manner, his open-mindedness, his capacity for fairness and for reaching the heart of the issue earned the respect of his colleagues.

And when he stepped down from the bench in 1969, legal commentators spoke of him as the strongest and most influential chief justice in American history, with the possible exception of John Marshall.

Certainly it can be said no chief justice has better served his court or country. In his 16 years in that office, the court compelled a massive change in the politics and social direction of the nation and ordered a major overhaul of criminal law. He forced it to act boldly where it had not acted at all on some central issues, and imbued it with a willingness to take on hard questions.

Warren probably will be best remembered for the historic decision—and it was unan-

imous—striking down segregation in the public schools, and in a series of landmark rulings which imposed strict guidelines to protect the rights of defendants caught up in the criminal process.

To him, though, Baker vs. Carr—the legislative reapportionment case which enunciated the one-man, one-vote edict—was the most important case to come before the court. And, indeed, in the years that followed, it reshaped the entire political scene in America.

The Warren court's major pronouncements acknowledged and vindicated the rights of the poor, the weak and the ignorant. They reflected Warren's inherent belief in the principle that the law and the Constitution must serve the lowliest as fully as it serves the most powerful.

The late Washington columnist Drew Pearson once wrote his grandson, then in the fourth grade: "By the time you are in college, Earl Warren will be regarded as a man who molded America as much as any of the great presidents."

Warren, in answer to a newsman's question in 1969, said: "I would like the court throughout its history to be remembered as the court of the people."

And so it will, chiseled as deeply into the conscience of America as the inscription on the Supreme Court building: "Equal Justice Under Law."

It was his guiding precept. It is his legacy for his children and children's children—and ours.

HOUSE CONFEREES ON VETERANS EDUCATION AMENDMENTS WILL NOT BE INTIMIDATED

HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 18, 1974

Mr. TEAGUE. Mr. Speaker, the day following the first meeting of the conferees on H.R. 12628, the veterans' education amendments, Senator GEORGE MCGOVERN inserted in the RECORD a letter which he had written to Senator VANCE HARTKE, chairman of the Senate Veterans' Affairs Committee, dated June 26, 1974. The opening paragraph of the letter was as follows:

I am deeply distressed to learn that there is a possibility that the tuition allowance included in the Senate Vietnam veterans bill may be eliminated by the House-Senate conferees. This would be a catastrophe for the veterans and a grave injustice. *I personally will not tolerate it.*

Senator MCGOVERN went on to say that he realized that it was a little unusual to speak about a conference while it was still in progress, and I certainly agree with him on that point, but I must go further and say that I consider it the height of arrogance for Senator MCGOVERN to serve notice that he "personally will not tolerate" any decision of the conferees except one that pleases him.

I am not intimidated by Senator MCGOVERN's threats that he will not tolerate our decision, and neither am I impressed with his new found concern for veterans' causes. If, during his service in the Congress, Senator MCGOVERN has shown more than a passing interest in veterans' affairs it has escaped me. Certainly his recent campaign for the Presidency was not distinguished by a meaningful program for veterans or any particular interest in the affairs of veterans. There is every indication that Senator MCGOVERN's sudden burst of enthusiasm for veterans' causes is directly related to the fact that he is opposed in his bid for reelection to the U.S. Senate by a distinguished former serviceman.

Most of the members of the House conferees have served on the House Veterans' Affairs Committee for many years. Several Members participated in formulating the Korea GI bill, the war orphans scholarship program, and the current education program for Vietnam veterans. Our conferees have more than a passing interest in seeing that the program succeeds, and we have accumulated a good bit of experience in dealing with problems in the earlier programs. We have thousands of pages of records of problems that developed with the previous attempt of the Federal Government to supplement tuition payments at high-cost schools. I do not acquiesce in any way to Senator McGovern with respect to his concern for Vietnam veterans, and we expect to follow a course which we think is best for Vietnam veterans and the taxpayers as a whole. We will not be intimidated by Senator MCGOVERN's threats.

In his letter to Senator HARTKE and statement in the RECORD, Senator MCGOVERN repeats the popular misconception that Vietnam veterans are not receiving educational benefits commensurate with those enjoyed by World War II veterans. This is not correct.

Vietnam veterans on the average are receiving more education benefits than World War II veterans received. Outlays per veteran in training, adjusted to constant dollars, for Vietnam veterans exceed payments made in behalf of World War II veterans.

Vietnam veterans have many extra benefits such as: Work-study assistance, tutorial assistance, military PREP, free high school elegibility, and longer enrollment period.

World War II veterans had restrictions which Vietnam veterans do not have:

They were required to initiate their course within a 4-year period or lose entitlement;

They were subject to an income limit on outside earnings;

Even though tuition was paid, an extra charge was made against entitlement for payments in excess of $500 for an ordinary school, where no such charge is proposed against Vietnam veterans;

They could have benefits from only one Federal scholarship program; and

They had no system of student loans as are available today.

It is erroneous to contend that most Vietnam veterans are not receiving more benefits than veterans of World War II. As a matter of fact, if the World War II program was adjusted to constant dollars and substituted for the current program, about 70 percent of those veterans in training would take a substantial cut. It is interesting to note that while making misleading statements regarding a comparison of benefits between World War II and Korea veterans, we never hear persons such as Senator MCGOVERN propose to return to the World War II system, and there seems to be a studious effort to avoid making any comparison of benefits available to Vietnam veterans as compared to Korea veterans. If Senator MCGOVERN has information which would indicate that Korea veterans received greater benefits than those available to Vietnam veterans, I certainly would like to have the information. If Senator MCGOVERN can provide information on which to base his contention that the majority of Vietnam veterans are not receiving greater benefits than benefits available to veterans of World War II, I certainly would like to have the information.

One feature of the World War II program, namely, tuition subsidies in high-cost schools, is seized upon without making a general comparison of both positive and negative features of the two programs, or total benefits payable to veterans under each program. This self-serving approach is used as a basis for the contention that Vietnam veterans receive less than World War II veterans, and this, in my opinion, is an exercise in intellectual dishonesty. Since times have changed substantially since World War II, I see little basis in making comparisons between the two programs. I certainly would not contend that Vietnam veterans' benefits be cut back in those instances where they exceed World War II veterans.

I am well aware that there is difference of opinion as to the merits of the tuition subsidy plan. I think the issue should be settled on its own merit. Congress has rejected the proposal on three previous occasions and I think there is abundant reason to reject it again. If for no other reason, there is a serious question of equity involved in a plan that takes two veterans with equal service and proposes to give $3,600 more in benefits to the one that chooses a high-cost school.

I deplore these continued attempts to lobby a tuition pay scheme for veterans in high-cost schools on the basis that such is necessary because Vietnam veterans are not being treated as well as World War II veterans. This kind of representation is unfair to Vietnam veterans and the public as well. In fiscal year 1973, Vietnam veterans comprised 22.5 percent of the veteran population and last year received 27.6 percent of the benefits paid to veterans. A substantial majority of Vietnam veterans are getting more benefits than World War II veterans so why should we continue to be exposed to this kind of misleading representation.

Let proponents of the tuition subsidy argue it forthrightly and let them be prepared to admit that if the Senate proposed tuition subsidy is adopted, it would represent benefits far beyond anything most World War II veterans ever dreamed of. As a matter of fact, if the Senate amendments are adopted, as little as 18 months' service will generate $15,300 in cash benefits and $10,000 in subsidized loans in some cases.

Senator MCGOVERN has introduced a bill of his own in the Senate. The bill is such a hodge-podge of novel features

that major veteran organizations have declined to support it, even though they were specifically requested to do so. The Senate Veterans' Affairs Committee wisely rejected many of the provisions of the McGovern bill, but now we find Senator McGovern laying down threats as to the decisions of the conference. I certainly am not impressed by his threats and I suspect this view is shared by the Senate conferees.

The insistence by Senator McGovern and others for the tuition subsidy scheme for veterans attending high-cost schools has served to delay passage of this legislation by more than 4 months now. This delay has cost the Vietnam veterans in school more than $50 million a month. If Senator McGovern's threats are to be taken seriously, we can expect further disruption of attempts at settlement of this issue, even though the fall enrollment period is only 45 days away. It may be that Senator McGovern is gaining political benefit posturing as a great friend of Vietnam veterans, but I think it will not be long before most veterans discover that this burst of election year enthusiasm is only serving to prevent resolution of this long overdue bill and is obstructing the conference and depriving more than 1.5 million veterans of an 18-percent increase, while Senator McGovern agitates for a scheme aimed at subsidizing a minority of veterans attending high-cost schools.

DOING WITHOUT THE DRAFT

HON. WILLIAM A. STEIGER

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 18, 1974

Mr. STEIGER of Wisconsin. Mr. Speaker, the fiscal year which ended June 30, 1974, demonstrated that the volunteer force is fully capable of meeting our military manpower requirements. With continued planning, innovation, and support from the Pentagon and Congress, increasing efficiency and economy will be obtained under the volunteer system in the years to come. The Kansas City Star has reviewed recent developments, and I am inserting their editorial in the Record for consideration by my colleagues:

IT'S SO FAR, SO GOOD, IN DOING WITHOUT THE DRAFT

A bright success story in what is generally a year of travail and gloom for America is the record since the draft was abandoned one year ago last week. After a wobbly start, the all-volunteer Army appears well on its way toward supplying its full manpower needs. Moreover, the Navy and the Air Force are managing nicely without the indirect support of conscription as in the past. Only the relatively small Marine Corps has experienced recruiting difficulties and these have started to decline.

Thus the all-volunteer system is working much better than skeptics in and out of Congress said it would when the draft officially was allowed to expire on June 30, 1973. Actually the program of relying entirely on volunteers for new military manpower had begun six months earlier.

True, there are still those who contend that it is more desirable in a democracy to base its defense on compulsory service instead of volunteerism. Oddly, this position is being taken by some political liberals who, a quarter of a century ago, would have been found in the predominantly liberal camp that successfully fought universal military training.

Nowadays the liberals, whose spokesman on this subject often is Sen. Edward Kennedy, lament the passing of conscription. Curiously there seems to be very little public support for this attitude. Most people, certainly those with youngsters likely to be called up in a future draft, were glad to see the end of compulsory service. In recent years it was anything but fair. There were large loopholes in the form of deferments for college students and the alternatives of joining the National Guard or the reserves instead of being inducted for two years of active duty.

Thus the toll of the draft was particularly hard on youths who could not attend college or in one way or another find escape hatches. True, college graduates were subject to eventual induction. But for many there was a kind of "catch-me-if-you can" spirit, with graduate schools and fatherhood offering further opportunities to escape service, in many cases permanently.

The net effect during the time of the Vietnam fighting was that the burden of defense fell heavily on high school dropouts and the poor. For them the loopholes were few. Of course there also were large numbers of middle-class whites who found themselves ultimately in uniform one way or another.

The concern of some critics who would retain the draft has been that a purely voluntary system would be largely made up of blacks and youths from the more deprived economic background. It would, therefore, the argument went, not provide a cross-section of the country's youth. That is partly true but it is also somewhat irrelevant.

Under the new all-volunteer system it has not been necessary so far to reduce either physical or mental standards in order to maintain the required strength. What might have been a problem in this respect has been relieved by the fact that the armed forces have been reduced from a Vietnam peak of 3.6 million on active duty to 2.1 million today.

Minority groups actually do provide a large percentage of Army volunteers but these men and women have to be qualified for acceptance. In the past 12 months approximately 27 per cent of new volunteers have been blacks. Only 21 per cent of black recruits have been assigned to combat units, an apparent indication that many blacks are seeking and obtaining the higher-skilled jobs.

The charge that volunteers are mercenaries and somehow a danger to the Republic is ridiculous. Military service has been made more attractive through internal reforms and pay scales at last in line with what can be earned in civilian life. Enlisted personnel are no longer "cheap labor" and that is only fair.

Of course a year or so is not enough time to say absolutely that the volunteer system is going to work. But it is working well so far and the skeptics have yet to find substance for their doubts. If the current trend continues, and there is no need for mobilization on a fairly large scale, the draft with its built-in inequities seems unlikely to be revived.

ONLY H.R. 22 ANSWERS HEALTH SECURITY NEEDS

HON. CLAUDE PEPPER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 18, 1974

Mr. PEPPER. Mr. Speaker, the House Ways and Means Committee recently held important hearings on the issue of national health insurance. I want you and my colleagues in the House to know that after following the hearings of the committee on the various bills providing for health care, and after an analysis of the various bills now pending, I have come to the conclusion that the only bill those of us who want the people of this country to get decent and adequate health care can support is H.R. 22.

Mr. Speaker, it was a privilege for me to have an opportunity to present my views to the Ways and Means Committee during the hearings, and I wish to insert the statement which I submitted to the committee in support of H.R. 22 in the Record at this time:

Mr. Chairman, almost 30 years ago, I was Chairman of the Committee on Health and Education in the Senate. We tried to find out why four million young Americans of draft age were not able to serve their country on account of physical or mental disability. Our committee made a thorough study for three years of the problems attendant upon that fact. We came to the conclusion that we should have national health insurance, which would contain provisions similar or identical to those contained in H.R. 22, if we were going to provide adequately for the health of the people of this country.

I pointed out to my colleagues that America was "paying a terrible price in loss of life, loss of health, and loss of man days", because then, as now, the people of the country were not receiving the medical care and attention which they required.

Today we are faced, as we were in 1947, with differences of opinion as to how the medical attention needed by the people should be supplied.

I have long endorsed the social insurance approach to financing and providing health care to Americans and many years ago, in fact, from 1946 on, I associated myself with the Wagner-Murray-Dingell group in the Senate and in the House which advocated what we then called national health insurance. I was one of the sponsors of H.R. 22.

Since that time, in my years in the House, I have supported a succession of bills designed to improve the availability of health services. The year 1965 was a most significant one for our senior citizens. In that year, the enactment of Medicare signalled the first step toward a national health insurance program for all Americans, and I am sure that many of us in Congress in 1965 believed that it was just a matter of a short time before such a program would be extended to the entire population.

Now, nine years later, we should profit from our experience with the Medicare program and we should consider the adoption of a health insurance program for all Americans which is based on sound principles.

I am aware many authorities urge that we should approach national health insurance on a gradual basis. And I, myself, have given some serious consideration to what kind of compromises can be made along the way toward the ultimate goal of a comprehensive program.

I have come to the conclusion, however, that certain highly important aspects of what I consider a comprehensive program cannot be sacrificed to political expediency.

May I respond to a question propounded by the distinguished gentleman from Texas? I believe it is better to wait even if we have to wait five years or whatever number of years necessary to get a bill like H.R. 22, passed—a comprehensive health insurance program—than it is to start with a program that would take a while to put into effect and a while to experiment with, but which will lead inevitably to the experience of the

American people that we are not reaching the goal that we would have achieved by having a national health insurance program.

I respectfully submit that we should delay, if it need be, until we can pass a bill like H.R. 22, and in the long run that will be in the public interest.

When the distinguished Chairman of this committee, Representative Mills, and Senator Kennedy introduced their version of national health insurance, H.R. 13870, I was pleased to see embodied therein many of the principles associated with health security, such as universal coverage, health resources development, payroll tax financing, and administration of the program through the Social Security Administration.

However, abundant evidence has been presented to the committee indicating that only the Health Security Act fully meets all the criteria that I believe must be considered in providing a Federal health insurance program for our nation. I shall discuss the most salient criticism of particular concern to me.

First, the Health Security Act is the only bill which provides for universal, compulsory coverage.

The Mills-Kennedy bill, H.R. 13870, excludes such groups as new workers and dependents if the worker is employed less than 25 hours a week; most divorced women who earn less than $400 per year; students over 22 years of age with limited income; and orphans in institutions and foster homes.

The Mills-Schneebeli bill (H.R. 12684), which is the Nixon Administration plan, is voluntary. It does not require employers with employees who have worked for less than 90 days to offer them insurance. An unemployed worker will have to take over the premium payments from his employer within 90 days or apply for the Assisted Health Insurance Plan which is a welfare plan.

Self-employed families, if they could not afford private insurance would have to pay 150 per cent of the average group rate in their state for insurance, or about $900 a year.

Poor insurance risks could only get insurance under the Assisted Health Insurance Plan.

Also, migrant farm workers by reason of their lack of stability in employment would not be readily insured under this plan.

H.R. 1, the Ullman plan, excludes Federal, State and local government employees, the unemployed not on unemployment compensation, and any who could not afford the premiums yet did not qualify for Federal aid.

The Waggoner bill (H.R. 14079) does not cover anyone for more than catastrophic benefits. It does not help anyone in the middle class obtain any more comprehensive health insurance than they now have.

Mr. Chairman, I recall a resolution adopted by the American Medical Association's House of Delegates in Boston and sent to the 1970 White House Conference on Children, in which the AMA set a goal of providing every baby the opportunity to be born healthy.

This resolution cites the importance of good health in infancy to a person's health and productivity during the rest of his life. It focuses on child and maternal health as "the foundation for the beginning of a massive effort in the area of disease prevention and health maintenance." Specifically it urged:

"Educating as many parents as possible to the importance of a mother's health to her baby—and encouraging expectant mothers to get prenatal care;

"Providing medical care that will pinpoint potentially 'high risk' mothers-to-be, and developing systems in each state to bring them and their infants under intensive care;

"Expanding health aspects of programs for school children;

"Encouraging health insurance plans that cover infants from birth."

More recently, the Senate Select Committee on Nutrition and Human Needs has published a Committee Print, "To Save the Children", 93d Congress, 2nd Session. This report estimates that 75 to 85 per cent of the approximately 150,000 reported mentally defective and retarded children born in the United States each year are born in poverty. In 1970, according to the United States Census Bureau, the number of families at poverty level $4,900 or under) with retarded children under 18, was 3,490,419."

This Committee Report further states: "The American Academy of Pediatrics Committee on Nutrition has estimated that 70 per cent of the at least 50,000 infant deaths reported in the United States are deaths of low-birth-weight babies.

I submit we cannot pretend to reach a goal of providing every baby the opportuity to be born healthy, until we accept the principle of universal coverage with no conditions or exceptions.

Second: The Health Security Act is by far the most comprehensive of any of the insurance plans proposed. It provides for unlimited hospital and physician services and post-hospital or nursing home care up to 120 days.

It provides for dentist care for children under 15 and this care is to be eventually extended to the entire population.

It provides for home health services, prescription drugs, optometrists and eyeglasses, medical appliances and ambulance services.

No other bill provides coverage to this extent which I consider to be essential to the health of any individual.

Third: The Health Security Act is the only bill which will not exclude any American for lack of money, or place any financial hardship on individuals or families. All the other proposals require some form of payment from the beneficiaries before benefits begin.

Under the Mills-Kennedy bill, a family must spend $150 per person in deductibles with a maximum of two per family before they are eligible for the 75–25 per cent benefits. Therefore, it is conceivable that four members of a family could have medical bills of $149 each totaling $576 without passing the deductible threshold.

Under the Administration plan, a family of four with an annual income of $10,000 would spend $1,255 in a year on health care before receiving any benefits. The family would spend an additional $900 before eligibility is established for full benefits.

Other bills also require substantial medical spending which can only result in deprivation of proper health care for millions of Americans.

Furthermore, by incorporating deductible payments of medi-gap insurance schemes into a comprehensive health plan, the system necessarily snowballs into a complex mass of administrative overhead.

Means tests, records of payment, collection of payments, and disbursements to health service providers combine to form an accounting nightmare. We have encountered these problems in present programs and it would be wise to heed the implications of such repetition.

The cost-sharing plans offered thus far are regressive in terms of payments. They do not operate on an equitable percentage-of-income plan but rather use fixed sum deductibles that are relieved only for the most indigent families. It is hard to imagine that a family of four, barely meeting necessities on $5,000 a year, could pay out $40 to $60 for recommended yearly adult check-ups.

Finally, deductibles are, in effect, an entrance fee—the initial payment that secures availability of a health service. Such payments will do nothing to encourage responsible utilization of services by those who can afford payment. Instead, deductibles will only discourage those who cannot comfortably make the "entrance fee" from using the preventive or "non-essential" services which we have come to recognize as so important.

The Health Security Act eliminates the cost-sharing mechanisms. It is the only bill that applies the tenet that the financial responsibility for health care has become a burden that our society can best shoulder as a whole.

The goal of a national health bill need not be mere adequacy in health care but rather address itself to equality in health care. Health is no longer an opportunity nor a privilege. In our modern affluent and technologically advanced society, it should be the right of every citizen.

Fourth: The Health Security Act creates a climate most conducive to effective and consistent cost control because it encourages preventive health care measures. It fully promotes the development and the utilization of preventive health care delivery systems. The public would be educated and encouraged to visit physicans for routine examinations or for medical diagnoses of possible systems of serious ailments before prolonged illness or disease occurs.

As author of the Nutrition Program for the Elderly, Title VII of the Older Americans Act, I continue to be vitally concerned with the importance of good nutrition to the mental and physical health of Americans.

The Health Security Act is the only bill which provides for nutrition services for all Americans without requiring a certification of need by a physician. In many cases, by the time the physician certifies the need, symptoms of malnutrition are present in the patient that require more costly treatment.

Mr. Chairman, in conclusion, I wish to stress the fact that the health of a nation's population is an important asset, and I am confident our nation has the resources if we desire to utilize them to develop the system of health delivery services which is provided for in the Health Security Act.

For example, I am heartened by the recent pursuit of careers in medicine by women. We know 80 per cent of the physicians in Russia are women. In the United States, in 1970, only six per cent of the physicians who were graduated from our nation's medical schools were women.

Let us utilize the talents and skills of women in our nation's health delivery system and encourage them to pursue the many careers that would be created if we were to provide an adequate health care system for all Americans.

A generation of debate—as I started to say at the beginning, this seems to me where I came in! We were discussing the same thing 30 years ago, Mr. Chairman, in the Congress. We have made some progress but I believe that the time has come for us to do what needs to be done in behalf of the health of America.

A generation of debate on health insurance proposals in the Congress has resulted in shameful and wasteful deprivation of adequate health services. The committee's National Health Insurance Resource Book attests to this fact, and I believe conclusively disproves the assertion of some Americans that there is no health crisis in this country. I shall cite only a very few examples:

As of December 31, 1972, only 58 per cent of the civilian population under 65 years of age were insured for out-of-hospital prescribed drugs; 51.3 per cent were covered for physicians' home and office visits; 21.5 per cent were insured for nursing home care; and only 9.5 per cent were insured for dental care.

And in fiscal year 1973, the average medical bill for an individual was $375. Only 26 per cent of this figure, or $97.50, was paid by private health insurance; 35 per cent, or $131.25, was paid by the individual; Government programs paid 38 per cent, or $142.50; and one per cent, or $3.75, was paid by philanthropic or other sources.

I urge my colleagues to reflect upon the

ultimate direction we would like this country to take in its national health insurance program, and in consideration of that ultimate goal to enact the program embodied in H.R. 22, the Health Security Act.

SOCIALIZED MEDICINE: A SURPLUS OF SHORTAGES

HON. EARL F. LANDGREBE

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 18, 1974

Mr. LANDGREBE. Mr. Speaker, I wish to call to the attention of my colleagues an article that appeared in the June 13 New York Times about a Rand Corp. study of proposed plans for instituting socialized medicine. The article itself is a summary of the Rand report which appears in the current issue of the New England Journal of Medicine. Anyone who desires the well-being of the American people ought to stop and consider the implications of this paragraph:

(If a national health plan were enacted) "Patients would experience longer delays in getting appointments and then doctors would have less time to spend with each patient. Over-all, the delays would prove costly to society as waiting takes time from other productive uses, such as happened when drivers waited for gasoline during the fuel shortage. Delays could cause som patients—those with untreated glaucoma a blinding disease, for example—to suffer permanent eye damage."

I trust that the proponents of the various national health plans will reconsider their proposals, and that those who have not yet decided whether or not the Government ought to provide medical care will decide against any such plans for socialized medicine, because such plans, if made law, will create chaos in our health care system, which is still the best in the world.

The article follows:

RAND REPORT PREDICTS ANY NATIONAL HEALTH INSURANCE PLAN WOULD SWAMP DOCTORS' OFFICES AND CLINICS

(By Lawrence K. Altman)

Any national health insurance plan that covered costs of most medical bills would swamp doctors' offices and outpatient clinics but have little impact on hospitalizations, according to a Rand Corporation report released yesterday.

The Senate is considering eight and the House 71 national health bills that range from full coverage to co-insurance in which the patient pays some portion of the bill.

But the Rand report was not directed to any specific national health plan submitted to Congress. Rather, it was geared to provide an analytical framework by using existing health economic statistics to examine two hypothetical plans, neither being identical with any particular proposed bill.

One plan would provide full coverage of all medical, surgical and psychiatric services. The other, which requires patients to pay no more than 25 per cent of bills for the same services, would have the effect of bringing individuals with poor or no coverage up to a minimum standard.

The Rand report is being published today in The New England Journal of Medicine. Among its conclusions are the following:

A comprehensive, full coverage, national health insurance plan would add between $8-billion and $16-billion to the $62-billion now spent on health care. Such a plan would also increase by at least 75 per cent the demand for ambulatory health care services. The overall effect would be to raise from 8 to 11 the percentage of the gross national product spent on such services. If drugs and dental services were included, the additional costs could amount to from $20-billion to $30-billion beyond the persent level of spending.

Alternatively, a health plan that made individuals pay 25 per cent of their medical bills would cost $3-billion to $7-billion more than present levels and would increase by at least 30 per cent the demand for outpatient care.

National health plans would have a greater impact on ambulatory care than did the introduction of Medicare and Medicaid in 1966. These Federal plans increased the demand for ambulatory services by 10 to 15 per cent and contributed to a doubling of the rate of price increase for a doctor's services.

Patients would experience longer delays in getting appointments and then doctors would have less time to spend with each patient. Over-all, the delays would prove costly to society as waiting takes time from other productive uses, such as happened when drivers waited for gasoline during the fuel shortage. Delays could cause some patients—those with untreated glaucoma, a blinding disease, for example—to suffer permanent eye damage. The net effect of such changes would be "to reduce demand for ambulatory services among the relatively affluent, who are primarily time-poor (reluctant to spend time waiting in line), and thus to enhance the tendency of a national insurance program to relocate services toward the dollar-poor."

However, catastrophic insurance designed to prevent financial disaster brought on by unusually large medical bills would add little to the total demand for either hospitalization or ambulatory services, the report's authors said.

The authors are Dr. Joseph P. Newhouse and Dr. Charles E. Phelps, both senior economists for Rand in Santa Monica, Calif., and Dr. William B. Schwartz, chief physician at Tufts-New England Medical Center in Boston.

As Americans have increased expenditures on health care from 4 to 8 per cent of the gross national product over the last two decades, they have reached the point where they spend $62-billion each year that would be affected by any national health insurance plan.

Given the size of existing expenditures, the Rand authors said there was no reason to believe that further increases in resources under any plan would extend life expectancy appreciably. Instead, the highest return would be an increase in the quality of life by allaying anxiety and relieving severe pain.

The authors cited existing data to predict that national health insurance's greatest impact would be on ambulatory services. Just 40 per cent of Americans are now covered by health insurance for such medical care, whereas 90 per cent of hospitalizations are paid for by third parties like Blue Cross-Blue Shield or the Federal Medicare plan.

Unless large large deductible were included; the Rand report said that "the increased demand would far exceed the current capacity of the delivery system."

The Rand authors took issue with political leaders over two points.

Both President Nixon and Senator Edward M. Kennedy, Democrat of Massachusetts, have expressed the position that an increase in outpatient coverage would lead to a decrease for costly hospital services. Rather, the Rand team said, "in most cases where outpatient coverage alone has been increased, there has been if anything a slight increase in the demand for inpatient services," perhaps because outpatient visits led to discovery of disease that required further analysis in a hospital.

The authors also said that little evidence existed that Health Maintenance Organizations had had any pronounced effect on life exepctancy by emphasizing preventive medical services like multiphasic screening and annual check-ups, President Nixon and Congress have backed the expansion of HMO's, like the Kaiser plan, throughout the country.

THE FOOD-FOR-PEACE DISGRACE

HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 18, 1974

Mr. HARRINGTON. Mr. Speaker, barely 3 weeks ago an amendment was passed in the House to place a ceiling on the amount of appropriated funds allocated under the food-for-peace program. It has become evident that in the past few years money originally intended for food to hungry people in various countries has been channeled to Vietnam and Cambodia. The local currencies generated by the sale of food in these two countries helped support the failing regimes of President Thieu and Lon Nol. Because there are no restrictions as to how this money can be spent, the intent of Congress to limit economic and military aid was deftly circumvented.

The following two newspaper articles deal with various aspects of these practices in the Public Law 480 program. Mr. Dan Morgan's article, "Program Under Fire on Hill," details the legislation introduced by Congressman JOHNSON of Colorado to place a 10 percent limit on the available money to all countries. In "United States Sells Indochina Tobacco" Mr. Morgan discussed the practice of shipping $25 million worth of tobacco to Vietnam and Cambodia under the food-for-peace program. The justification of this large amount by administrative officials, as Mr. Morgan notes, is based on "morale building" factors. The idea of supplying tobacco to these countries is tremendously popular with tobacco-raising States which see the program as a way of dumping their excess of this

These articles show how a foreign policy that originally offered humanitarian aid to countries in all parts of the world has turned into one in which administrative priorities have erased most of the original intent of this program.

The newspaper articles follow:

INDOCHINA FOOD AID PROGRAM UNDER FIRE ON HILL

(By Dan Morgan)

"These decisions are made downtown by a faceless group, an interagency body, it is called, and it is made up of representatives from OMB, Treasury, AID, National Security, National Defense and Agriculture . . . What it amounts to is a $435-million slush fund."

With those words on the House floor June 21, Rep. James P. Johnson (R-Colo.) opened a congressional drive to force a drastic shake-up of the administration's food aid program—for years the least questioned form of foreign assistance.

A Johnson amendment which the House passed on a 61–to–51 vote would prevent the administration from allocating more than 10 per cent of the appropriated funds to any single country. The effect would be to put a $42.5 million 1974 ceiling on farm commodities transferred to South Vietnam and Cambodia under concessional loans.

Advocates of a radical reordering of food aid priorities charge that the administration has systematically used the 20-year-old Public Law 480 to circumvent congressional limits on military and economic aid to Indochina. In the fiscal year just ending, nearly half of all food aid loans were allocated to South Vietnam and Cambodia.

Johnson's amendment, attached to the administration's agricultural spending bill, is now before a Senate Appropriations subcommittee which is reported fairly evenly divided on the issue. Senate sources said that Sen. George McGovern (D-S.D.), backed by a number of Senate liberals and some Republicans, would make a floor fight for the food aid restrictions if the amendment is deleted in the subcommittee.

"The issue here is the prostitution of the American Food for Peace program," said a Senate source last week.

"Something has got to be done about food aid," an administration official asserted.

Congressional battle lines are drawn between security-minded supporters of the Nixon doctrine of giving aid priority to U.S. military clients, and "doves" who feel the many-faceted aid to Saigon is only delaying an eventual political accommodation between the regime and the Communists.

However, officials who have followed the evolution of the Food for Peace program over the years say broader principles are involved.

Secretary of State Henry A. Kissinger has called for a world food conference to be held in Rome in November. The plight of hungry nations, and the response of wealthy countries to it, is high on the agenda.

In the background are rivalries involving half a dozen government agencies, which have differed in the past two years over the allocation of the United States' limited food aid resources.

These rivalries have sometimes pitted representatives of Kissinger against those of Agriculture Secretary Earl L. Butz, with Butz often emerging the loser.

Sources said that in the interagency board that allocates food resources, Kissinger's aides on the National Security Council consistently pressed for massive shipments to Indochina—the so-called "supporting assistance."

Butz argued for giving the priority to countries such as Indonesia and South Korea because of their potential as future commercial markets.

In this debate, pleas for a bigger share for some 90 other poor countries that received little or no food aid have gone mainly unheeded.

In the House floor discussion last week, Rep. James D. Symington (D-Mo.), asked: "Why should 1 per cent of the world's population, the peoples of Cambodia and South Vietnam, receive nearly half of the scare funds available under Title I? It does not seem proper, yet it happened in 1974, to our surprise and dismay."

Public Law 480, which established the food aid programs of the 1950s and 1960s, was set up to make use of surplus U.S. food production, develop overseas markets, combat hunger and "promote in other ways the foreign policy of the United States."

Some critics claim that the latter has increasingly become the central rationale for American food largesse, with less and less emphasis given to humanitarian considerations or feeding the world's hungry.

The United States halted food aid loans to India after that country's war with Pakistan in 1971, and plans to resume such loans to Chile in the coming fiscal year, in the aftermath of the ouster of the Marxist regime of the late Salvador Allende. The Agency for International Development estimates that $35 million out of the total $50 million food assistance loans to South America will be allocated to Chile. Food aid loans are at an average 2.2 per cent interest for a period averaging 33 years.

A report issued by the General Accounting Office this year stopped just short of calling a 1971 American pledge to increase by $275 million food aid commitments to South Korea a political quid pro quo for Seoul's agreement to limit textile exports to the United States.

Subsequently, however, the United States sharply reduced its food aid to Korea. The United States responded to Korean complaints by saying the commodities were not available. But some congressional officials assert that the reason was the heavy diversion of food products to South Vietnam.

In the coming fiscal year, however, food loan shipments to the Seoul regime will be increased from $10 million to an estimated $150 million AID says.

The administration predicts a slight overall decline in the value of food aid shipments in the coming year: $891.7 million compared with this year's $1.013 billion.

It wants Congress to appropriate $425 million in new money for the program of concessional sales of farm commodities, called Title I, and $353.2 million for the food giveaway program, called Title II.

According to AID, South Vietnam and Cambodia received just under half the world total of food aid in the fiscal year just ending.

In defense of this preponderance, officials say: "All the rice was eaten." They also assert that last year, because of quadrupled U.S. rice prices, only 600,000 tons, rather than the 1 million tons sent in fiscal year 1973, was shipped to Indochina.

Congressional critics retort that the aid was nothing but a thinly disguised budgetary subsidy for Saigon's war economy.

Administration officials have conceded that much of the proceeds from the Saigon government's sale of Public Law 480 food on the local economy went to military or defense purposes, with U.S. approval.

Rep. Joseph P. Addabbo (D-N.Y.) charged on the House floor:

"These funds all were used, or could be used, under aid for common defense, so as we cut the military aid they came in through the back door with Public Law 480 aid and reversed the mandate of Congress."

Under the 1973 Foreign Assistance Act, proceeds from the sale of the PL-480 commodities cannot be used for military purposes after July 1, unless specifically authorized by Congress.

However, some ambiguity apparently remained as recently as Jan. 21, when South Vietnamese Foreign Minister Vuong Van Bac signed a $55.2 million agreement for the delivery of rice, soybean, corn and peanut seeds under Public Law 480. In that, it was stated that the government of Vietnam understood that the foreign aid act restriction "may" have the effect of prohibiting the use of foreign currencies for common defense purposes. U.S. officials said last week that ambiguities have been cleared up.

AID Director Daniel Parker told a Senate Agriculture Committee panel in April: "Unequivocally . . . we are not going to continue to use these funds for defense budgets."

Rep. Johnson's amendment providing country ceilings on future food aid shipments was opposed by Rep. Jamie L. Whitten (D-Miss.), chairman of the Agriculture Subcommittee of the House Appropriations Committee, and by Rep. Otto Passman (D-La.). Both are from rice-growing states.

Passman's home state is the country's leading rice producer. The domestic market uses only 35 to 40 per cent of the rice produced in the United States. The rest is exported, much of it to Asia.

The rice industry has been a major beneficiary of the Public Law 480 program, which has accounted for about half of all U.S. rice exports in recent years. Rice is not consumed in many poor parts of the world. Therefore, the Asian food aid program, rice industry officials say, is important.

"This (congressional amendment) will definitely be a blow, if it meant losing that export market," said J. P. Gaines, executive president of the Rice Millers Association.

Public Law 480 still enjoys a broad following among farmers and their representatives on Capitol Hill. Although world food demand outstripped supply last year, some farmers feel that bumper U.S. corn and wheat crops this year could reverse the trend. Therefore, Public Law 480 is seen as the best guarantee that the government will still be around to help move surpluses abroad, if foreign demand slackens.

The food aid debate marks a questioning of the allocation procedure, rather than the program itself. Critics point out that only $4.1 million in food giveaways is currently planned for the drought-stricken Sahel region in Africa—one-fortieth of the South Vietnam estimate.

House and Senate critics claim that the food aid appropriations, as handled in the past, give the administration a blank check.

The interagency board which decides how the funds are spent can shift the allocations from one country to another without congressional approval. It also has at its disposal some $300 million in annual loan repayments.

There are other loopholes as well, Johnson and others maintain.

"If they're determined to keep the aid to South Vietnam at the present high level, they can do it one way or another," said one official. "The question is how long they are prepared to hold the whole program hostage to Vietnam."

United States Sells Indochina Tobacco

(By Dan Morgan)

Spurred by a powerful bloc of Southern congressmen, the U.S. government is planning to ship some $25 million worth of tobacco to Vietnam, Cambodia and a number of poor countries as part of its "food aid" program in the coming year.

In justifying the deliveries of tobacco, which is used almost exclusively in the manufacture of cigarettes, administration officials cited the "morale-building" factor in providing the commodity to war-torn nations.

However, sources in the Department of Agriculture who criticized the handling of the American food aid program described the tobacco shipments as a form of "security assistance" to Indochina.

These sources said the proceeds of the Vietnamese goaernment's sales of the tobacco have been used mainly for common defense purposes" in the past, and in this fiscal year, will go toward buttressing the country's war economy.

"Not only do we send guns to Indochina, we give them lung cancer to boot," said a congressional aide who became aware of the scope of the tobacco shipments on a recent tour of the area.

Virtually all the tobacco imported into Cambodia and Vietnam now goes through Title I of the Public Law 480 "food for peace" program, Agriculture Department officials said. Under this, foreign governments purchose the commodity at long, low interest terms and sell it in their local economies.

In fiscal 1973, 8,428 tons of unmanfactured leaf tobacco were shipped to Vietnam under Title I, out of the 11,443-ton worldwide total, according to department figures. Cambodia received 571 tons. The amounts were 4,250

tons and 750 tons, respectively, in the July, 1973, to May, 1974, period.

Officials said worldwide shipments of tobacco under Title I ran about $25 million in the fiscal year just ended and "requirements for the coming year will be at that level." They predicted shipments to Vietnam of $10 million to $12 million.

Tobacco was included in the Public Law 480 program early in its 20-year history, at the urging of the powerful tobacco-state bloc in Congress. Moves to reduce its share of the program, which has varied from 2 to 5 per cent of the total, have consistently met with strong congressional opposition. Industry and legislative spokesmen indicated Monday that their enthusiasm for the program is undiminished.

"Public Law 480 has been kind to tobacco," said Rep. Walter B. Jones (D–N.C.). The program was "one way to assist farmers," he said and also aid the American balance of payments position.

Rep. Frank A. Stubblefield (D-Ky.), chairman of the tobacco subcommittee of the House Agriculture Committee, said the shipments are a "morale builder." He added that American farmers would be upset by any curtailment of the program.

Industry officials said that the congressional delegations of Kentucky, Tennessee, North and South Carolina, Virginia, Florida and Georgia were solidly behind the program.

"I don't know any senator or congressman from those districts that doesn't go down the line on the tobacco program," said Joseph Williams, president of Tobacco Associates, the Washington-based growers organization.

"If you're going to have a $500 million program, tobacco has a right to its fair share of it," he added. Tobacco is the country's fifth largest agricultural export product, accounting for nearly $1 billion annually in foreign sales. About a third of all domestically grown tobacco is exported.

Public Law 480 exports account for only a small percentage of the tobacco shipped abroad. However, according to Williams, the program is essential if the industry is to recapture former commercial markets in Indochina and the Middle East, which were closed off by war. "Without the government's help, we can't reestablish those markets," Williams said, noting that Egypt was once a $20 million-a-day U.S. tobacco market.

According to Agriculture officials, the Public Law 480 export program is important to growers of certain kinds of tobacco now in surplus because of worsening world trade barriers and declining cigarette use in the United States. The Agriculture Department estimates there are now some 75,000 tons of flue-cured tobacco in government storage, while government stockpiles of many key farm items like wheat are near zero.

In the last two weeks, critics of the administration's heavy allocations of Public Law 480 loans to Vietnam and Cambodia have charged that the food for peace program has been used to circumvent congressional limits on military and economic aid to Indochina. Half of all food aid loans went to these two countries last year.

It was learned this week that the Agency for International Development quietly began paying the ocean freight charges of the drastically increased food shipments to Cambodia last fall, to avoid overstraining that country's limited monetary reserves.

Cambodia is the only country in the program that doesn't pay the freight costs of such food. In 1974, the bill to the United States was $25 million. Agency officials predicted this week that if congressional efforts to curtail the Cambodian food aid program succeed, "Cambodia will collapse . . . you'd have real panic; the government would go under, in terms of reality and of the psychological effect."

THE FUTURE OF COMMUNITY COLLEGES

HON. CHARLES H. WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 18, 1974

Mr. CHARLES H. WILSON of California. Mr. Speaker, recently Prof. Francis Shief of the Social Science Department of Prince Georges Community College sent me a very interesting paper on "Community College Education as a Source of Economic Development." He will deliver this talk at the Second Annual Atlantic Economic Conference to be held in late September in Richmond, Va.

Since I agree with Professor Shieh's thesis that community colleges offer a valuable source of manpower development and training and that, because of their low tuitions and open-door admissions policies, provide exceptional educational opportunity, I would like at this point to insert Professor Shieh's remarks in the RECORD so that my colleagues can benefit from his views:

COMMUNITY COLLEGE EDUCATION AS A SOURCE OF ECONOMIC DEVELOPMENT

(By Prof. Francis Shieh)

The development of human resources (human capital) to free people from the hardship of poverty and ignorance in the sharing of benefits is gladly and encouragingly viewed by economists and educators.

Men are now seeking to find more food supplies and energy sources, more steady employment and increasing responsibility with dignity, better education and training for enhancing productivity in every stage and phase of economic performance.

We all know that the development of an education system and the formulation of an education policy are linked with economic evolution. The fact of increasing enrollment in community colleges is a concrete evidence of the role of such division in the education sector in contributing to the labor factor of production.

As the expression goes, "One has a sense of honor only when one's livelihood is assured." One ought to be realistic in order to satisfy one's basic needs and the acquisition of a certain skill to earn a living can easily be attained by attending community colleges.

Besides imparting knowledge and skills, we need to cultivate a problem-solving attitude among students. This can be done not through dull standards which are unexciting or meaningless to the novice but through work-study programs that can be available in the patterns of community colleges. With expansion in community colleges the best brains are absorbed into academic life and industries which are vital to economic growth. We need to create more opportunities for all who are involved in business and industry. Community colleges would be engaged in innovations in academic curricula and teaching. Community college educators would feel, in my judgment, that we have a commitment in our economic future.

Human resources are more important than material resources in economic development. For without adequate human resources, material resources cannot be adequately utilized by men for the benefit of all. And human resources can be developed only, as I see it, if education at the community college level would be available to all our people. The low tuition fees have an effect in terms of increasing enrollment and the high rate of inflation is another factor of such a development.

There can be no doubt that as a source of manpower development and training, community colleges have become highly significant to industry and the business world.

Training processes are analogous to production processes; they transform input (unskilled labor) into output (skilled labor) using human capital instruments (community colleges) and personnel (educators) and processes (training programs).

Manpower training and policy is always the component of modern American economic life.

OBJECTIVE

One objective of this paper is to assure fellow economists the qualitative dimension of scientific and technological manpower development in American community colleges. A significant factor in the sustenance of the Nation's economy is the capacity and capability to provide trained technical personnel at the grassroots level. Since there seems to be no fully agreed upon definitions of the terms "technician" and "technologist," these terms will be used without specific distinction. Technical training programs are those which have as their primary aim preparation for tertiary (para-profesional) and productive employment. The Community College Programs have expanded greatly during the past decade. (Cf. *Keys for Economic Understanding* by Francis Shieh Kendall/Hunt, Dubuque, Iowa 1971; *Manpower Report of the President*, April 1974; *Occupational Outlook Handbook* 1974–75 and *Budget in Brief*, Fiscal Year 1975.) These education programs are designed to provide a firm base for continuing education—even when the worker's education is interrupted by periods of employment. Such programs will have as their primary emphasis the basic scientific, engineering, and mathematical knowledge upon which necessary and specific skills may be set and built. To sum up the rationale as follows—

1. a sound scientific and technical basis for continuing professional growth in the intermediate range for immediate applications.

2. an ability to adapt to technological advances and

3. job entry skills for employment in scientific and technological activities.

PROJECTIONS TO 1976

Leading up to the observance of our 200th anniversary, four States have been selected to establish the pilot phase of a program that will highlight the contribution of education to the Nation's economic development.

Alabama will study the role of educational institutions, such as community colleges. The results will be incorporated in high school social studies courses and broadcast statewide over educational TV.

PROJECTIONS TO 1982–83

Enrollment in community colleges would be in the neighborhood of 3,000,000 with an increase of 25% from 1972 to 1982 and four-year institutions of 6,000,000 (circa) with an increase of only 3%.* Such trends would be clear in terms of the topic of this paper.

EPILOG

The trend toward occupational education in community colleges will continue at an accelerated pace, as is evident from the fact that 135 of the 160 programs projected for introduction in Maryland's community colleges between 1974 and 1979 will be in occupational areas. The scenario appears to be economizing the cost of tuition, optimizing the amenity of individualized instructions and maximizing the benefits of career-oriented people.

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* Official data from the U.S. Office of Education to be modified by the author.

COMMUNITY COLLEGE EDUCATION AS A SOURCE OF ECONOMIC DEVELOPMENT

Appendix A—Specific examples of vocational training available in community colleges

Degrees Conferred in Maryland Community Colleges

A total of 4,861 Associate in Arts degrees were awarded in 1972–1973 with 1,975 of these awarded in the occupational areas. The major areas of concentration of the 1,975 degrees awarded in the occupational areas were:

Health service (43%)	855
Public service (22%)	431
Business and commerce (19%)	370
Data processing (8%)	151
Engineering related (7%)	142
Natural science (1%)	26

The table below compares the degrees and certificates awarded in Maryland's community colleges over a five-year period. A comparison of the degrees awarded in occupational areas versus the total Associate in Arts degrees awarded, and the Certificates awarded versus the total Associate in Arts degrees awarded follows:

Degrees awarded

Year:	
1969	1,917
1970	2,310
1971	3,162
1972	4,069
1973	4,861

Degrees awarded in occupational areas

Year:	
1969	538
1970	809
1971	911
1972	1,588
1973	1,975

Certificates

Year:	
1969	58
1970	117
1971	98
1972	93
1973	247

The percentage of Associate in Arts degrees awarded in the transfer category compared to those awarded in the occupational area has shown a decrease over the past five years. In 1969, 28 percent of all degrees awarded were in occupational areas while in 1973, 40.7 percent were in occupational areas. The number of Certificates awarded have fluctuated over the five-year period. The large increase from 1972 to 1973 is accounted for primarily by graduates of a special program initiated by one of the community colleges in 1972.

Appendix B—Relationship between examples in Appendix A and manpower needs

Information based on the new 1974–75 edition of Occupational Outlook Handbook reveals that:

Two out of three job openings that will arise through 1985 will stem from the need to replace workers who die or retire. Only a third of the openings will result from employment growth.

The number of professional and technical jobs—those that usually require a college degree—will continue to grow faster than jobs in any other occupational group. However, the vast majority of the 60 million job openings expected to become available between 1972 and 1985 will be open to persons who have completed 2 years of community college.

Educational requirements will continue to rise for most jobs, including jobs in clerical and blue-collar fields. Post-high school training, such as that obtained through apprenticeship, and community colleges will take on increasing importance.

Some jobs with the fastest growth rate will be in the health field, often in comparatively small aide and assistant type positions. Jobs as mechanics and repairmen of such diverse products as computers, industrial machinery, and air-conditioning, refrigeration, and heating equipment will also grow rapidly.

With the world of work becoming increasingly important to young people choosing careers and to planners and administrators of manpower programs.

The new revision of the Handbook indicates that demand for professional and technical workers will continue to be strong in the health field and in such specialties as social work, systems analysis, and personnel work.

Among occupations requiring community college education, employment will grow rapidly in lithographic occupations, firefighting, and cement and concrete masonry work, in addition to most para-professional health occupations and the mechanic and repair jobs. Opportunities for stenographers and secretaries will also be good, since the field is large and employee turnover is high.

Appendix C—Special strengths of community colleges

The community college operates under an open-door policy to all high school graduates and other adults who qualify for specific programs. For a low tuition, students are admitted without regard to race, color, sex, religion or social status.

By creating a total educational environment the College is committed to helping each student realize his/her potential, limited only by his/her individual abilities and aspirations.

The College assumes leadership in identifying and evaluating the needs of the community and responding to the demands of a changing society.

Programs are designed for the following purposes:

1. Academic two-year curricula for transfer to four-year colleges or universities.
2. Technical, occupational career, and semi-professional training leading to employment in specialized fields.
3. Activities for adults who desire continuing education or personal enrichment.
4. Extra-curricular activities to develop leadership and broaden student interests.
5. Community Service programs of skills, understanding and appreciation to meet the diversified demands of our society.

The above-mentioned features can never be matched by traditional four-year liberal arts colleges, technical, secretarial or any career schools.

The so-called Career Schools in the private sector may be over 10,000 in number (both resident and correspondence)—annually enroll over three million students at a tuition cost of more than $2.5 billion. But substandard and shoddy education may prey on students who truly desire to have vocational education. The Federal Trade Commission has published a guidebook on vocational schools to expose deceptive practices.

Ten years ago there was only one community college offering its students the opportunity of a cooperative education program. As a consequence of Congress' establishing a national public policy to favor and assist the expansion of cooperative education, there are now several hundred community colleges that have started cooperative education programs. An increase in funding of part IV–D will be necessary to replace a substantial portion of the current $19,500,000 now available for community colleges to develop cooperative education programs under the Vocational Cooperative Education Program.

Cooperative education is a response to the realization that industry and education need to work together on the pressing problems of community college education as a source of economic development.

The Community Colleges are in greater demand than the land-grant colleges in the 19th century. The Associate Degree, therefore, may be termed as a typical American collegiate degree to serve our society.

DAVID M. ABERNATHY AND WAYNE B. KNIPE III WRITE BOOK FOR THE NOVICE INVENTOR

HON. JOHN W. DAVIS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 18, 1974

Mr. DAVIS of Georgia. Mr. Speaker, I take pleasure in commending two gentlemen from the Seventh Congressional District in Georgia for their diligent efforts on behalf of the independent inventors of America. Dr. David M. Abernathy and Mr. Wayne B. Knipe III discovered while conducting research beginning in 1972 that there existed a problem of adequate information for the beginning inventor. Desiring to aid the beginner, they felt that an early harmonious relationship with the U.S. Patent Office would be of benefit to the novice inventor.

These distinguished gentlemen authored a comprehensive book on the patent process, entitled "Ideas, Inventions and Patents: An Introduction to Patent Information," published by Pioneer Press, Inc. This book has been acknowledged to be the only one of its kind, offering complete guidance and encouragement to the inventive citizens of our country.

In my capacity as chairman of the Subcommittee on Science, Research and Development, I have a personal concern for the independent inventor who, in the past, has made a great and significant contribution to the economic growth and success of our great Nation. It is my hope that new inventions can be stimulated to add incentive and future prosperity for our continued growth in this technological age. In this current period of the Bicentennial emphasis, it is fitting for us to remember that the individual inventor, protected in his efforts by the U.S. Patent Office, enjoys a heritage and a legacy deriving from the Constitution.

Our Founding Fathers recognized that government protection for privately held inventions would stimulate the growth of a new Nation. It is interesting to note that George Washington signed the first patent to be granted, that Thomas Jefferson, in his capacity as first Secretary of State, administered the patent system, and that Abraham Lincoln, himself a patentee, remarked:

> The Patent System added the fuel of interest to the fire of genius.

Messrs. Abernathy and Knipe, through their book, have inspired the U.S. Patent Office, in cooperation with the American Patent Law Association, to prepare a selected bibliography listing important references for beginning inventors as well as advanced practitioners. This effort is being coordinated by Mr. Isaac Fleischmann of the U.S. Patent Office information services, assisted by Mr. D. Carl Richards, chairman of the American Patent Law Association information services.

I would like to take this opportunity to express my personal appreciation to Messrs. Abernathy and Knipe for their constructive solution to the problem of information for beginning independent inventors.

BLACK WOMEN ORGANIZED FOR POLITICAL ACTION OPPOSE ABORTION RESTRICTIONS

HON. RONALD V. DELLUMS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 18, 1974

Mr. DELLUMS. Mr. Speaker, I would like to express again my grave concern for the basic human right of each woman to decide when to acquire a legal abortion. I believe that it is not the moral duty of this body to legislate laws forcing any woman to have an unwanted child.

The medically administered abortion, which has long been used by more affluent Americans, alters a natural process of the female body just as the vasectomy does the male. To illegalize abortion would only serve to impose further hardships on America's poor, in addition to thwarting medical advancement.

Abortion as a right, not a privilege, should be available to every woman in this country without restriction by law or constitution amendment. For if this Congress opts to enact such legislation, a past era of quackery, self-induced abortions, and abortions at exorbitant fees will be reawakened.

A wide array of individuals and organizations have taken a principled stand to support each woman's option to legally abort. However, at times opponents to legal abortion raise cries of "genocide" to support their position. During the turbulent sixties, some black organizations used the genocide argument to denounce a woman's right to legal abortion. Despite the rhetoric of such an argument, the fact remains that to legally deprive women of that right is immoral, insane, and unjust.

Since then black organizations have taken a turn in thought. Given their plight in this country, blacks forsee potential dangers if abortion is illegalized.

At this time, I would like to enter into the RECORD a letter from the Black Women Organized for Political Action which profoundly expresses opposition to proposed legislation to restrict abortions:

BLACK WOMEN ORGANIZED FOR ACTION,
San Francisco, Calif., July 11, 1974.

Congressman RONALD V. DELLUMS,
Longworth House Office Building,
Washington, D.C.

DEAR CONGRESSMAN DELLUMS: Black Women Organized for Action (BWOA) would like to express our concern on the proposed amendment to the Constitution of the United States which reads:

"Neither the U.S. nor any state shall deprive any human being (from the moment of) conception of life without due process of law; nor deny any human being from the moment of conception, within its jurisdiction the equal protection of the law. Neither the U.S. nor any state shall deprive any human being of life on account of illness, age or incapacity."

BWOA recognized several problems with this amendment sponsored by Senator Mark Hatfield (Oregon) and Senator James Buckley (New York):

1. Rape victims who conceive a child will be forced to bear the child.

2. Danger to a mother's life will no longer be sufficient grounds for abortion.

3. Abortion will be defined as murder.

4. Women will not have free choice to make personal decisions on the abortion question.

Black Women Organized for Action *does not* support this proposed amendment to the Constitution for Black women who are poor or who must depend upon public health facilities may resort to illegal abortion and jeopardize their life and health.

We urge you to oppose the "so-called right-to-life" amendment.

Sincerely,

ANITA WILLIAMS,
For the Health Committee Black Women Organized for Action.

CONGRESSMAN AL QUIE'S LEADERSHIP REFLECTS DECENCY AND COMMONSENSE

HON. ANCHER NELSEN

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 18, 1974

Mr. NELSEN. Mr. Speaker, back home in Minnesota, most of our citizens have long recognized that Congressman AL QUIE is one of the Nation's leading experts in the field of education. When this fact is recognized by no less an authority than the New York Times, however, it creates a feeling of particular pride among Minnesotans, particularly when AL's position in the instance cited did not reflect the special interests of the State in which this newspaper is housed.

I am pleased, therefore, to insert in the CONGRESSIONAL RECORD an article from the New York Times that appeared earlier this year describing AL's determined effort to make the allocation formula more equitable for the assistance of disadvantaged students in elementary and secondary schools across the Nation. AL QUIE's commonsense approach and his leadership, to quote the Times' news account, as "one of the foremost congressional authorities on education matters," is warmly appreciated.

Over many months, Mr. Speaker, I have also been saving for inspirational purposes a heartwarming commentary written by Washington Post syndicated columnist David Broder. In this depressing Watergate period, it continues to serve as a clear reminder that decent political motivations and individual conscience have not been written off in American politics. AL QUIE's eloquent statement quoted by Mr. Broder certainly proves the point.

The articles to which I have alluded follow at this point in my remarks:

[From the New York Times, Mar. 13, 1974]

STATE FACES LOSS IN EDUCATION AID—HOUSE DELEGATION DEFEATED IN TEST VOTE ON FORMULA FOR FEDERAL FUNDS

(By David E. Rosenbaum)

WASHINGTON, March 12.—The New York State delegation, so often divided and conquered on the floor of the House of Representatives, stood united today on an aid-to-education measure and still went down to defeat.

The vote was on a procedural question setting the stage for the House debate next week on a multibillion-dollar, three-year bill that would provide continued Federal assistance for grade schools and high schools.

New Yorkers object to the part of the bill that would create a new formula for determining how much each state and school district is to receive in assistance for underprivileged pupils over the next three years.

Under the formula, established by the Education and Labor Committee, New York City would be allocated about $30-million less each school year than it is now receiving, and the rest of the state would lose $5-million more.

The vote today came on whether to adopt ground rules for debate that would limit amendments to the formula. The New York delegation wanted to reject the proposed rules, but they were accepted by a vote of 234 to 163.

James F. Hastings, a Republican from a rural district around Elmira, was the only New Yorker to vote in favor of the rules. New Jersey and Connecticut would lose marginal amounts under the formula, and their representatives also voted against the rules.

ISSUE HAS BEEN CAST

Representative Peter A. Peyser, a Westchester County Republican who is one of the leaders in the fight against the bill, declared after the vote, "We still have a shot at it."

But the issue has been cast as one of New York against the rest of the country, and the House is stacked against New York.

As the Representatives filed into the House chamber for the vote this afternoon, Representative Albert H. Quie, a Minnesota Republican who is one of the foremost Congressional authorities on education matters, stood at the door to the chamber and warned his colleagues. "This is just for New York."

The main hope for the New Yorkers now lies in the Senate, where Senator Jacob K. Javits is the ranking Republican on the committee that is considering education legislation.

At present, Federal aid for compensatory education programs for underprivileged children is principally based on the number of children in each school district whose families receive welfare payments and the state's per-pupil expenditures for education.

The formula devised by the Education and Labor Committee would base allotments on three factors: the number of poverty families ($4,200 a year or less for a nonfarm family of four this year), two-thirds of the children in families whose welfare payments push their income above the poverty line and the state per-pupil expenditure.

STATE WOULD BE ALERT

A limit would be set so that states that spend more than 20 per cent above the national average for education, as New York does, could not count the expenditures above 120 per cent of the national average.

New York would be hurt because of its large number of families on welfare and large state expenditures for education.

The State Department of Education has estimated that the cutback in the city's Federal funds would mean that 88,000 children would have to be dropped from programs providing remedial reading and arithmetic, social counseling and other services for disadvantaged children. The staff of these programs would have to be cut by one-third, according to department figures.

Mr. Quie, arguing in favor of the new formula, declared that New York State had 8 percent of the children in the country and 6.3 percent of those in poverty but received 15 percent of the Federal compensatory education money last year. The new bill, he said, would give the state 11 percent of the money.

Moreover, Mr. Quie noted, the old allotments were based on 1960 census figures, which were now out of date and, he declared, an unfair measure of need.

[From the Washington Post, July 22, 1973]

TWO TALES OF "HEALTHY" POLITICS

(By David S. Broder)

As a relief from the tales of payoffs, cover-ups and buggings, we turn today from the wretched Watergate business to a part of incidents, not terribly important in themselves, which indicate something much healthier about our country and the men we chose to govern us than the sickening spectacle of the televised Senate hearings.

The heroes of these tales, if you consider them such, are men with unfamiliar names, who labor in the obscurity reserved for all but a handful of members of the House of Representatives. They said and did what they did, not in hopes of praise, but because their consciences prompted them to do it—and their political judgment told them their constituents would support them, should they learn of it.

One of them is Rep. Tom Railsback, an Illinois Republican. One day last month he stood up on the floor of the House and moved to amend the judiciary appropriation bill to add $2.8 million.

Challenging the appropriations committee on the floor is one of the riskiest things a House member can do. That committee is big, strong, and proud—and every member needs help from it. Normally, a House member will take on the appropriations committee only when he feels an absolute political imperative to fight for some project for his district.

Railsback was seeking no local benefit. He wanted the House to override its appropriations committee in order to provide all of the 30 new probation officers requested by the federal judiciary, instead of the 170 additional positions approved by the committee.

Railsback happens to be a member of the House Judiciary subcommittee that has been studying America's penal system. In his low keyed respectful speech, he simply noted that an effective probation system would cut the 72 percent recidivism rate on first-time youthful offenders.

The manager of the bill, Rep. John M. Slack of West Virginia, roared back in expected fashion, defending the superior wisdom of the appropriations committee and adding, gratuitously, that "If the judges would put some of the criminals in jail instead of on probation, the country would be a lot better off."

But the huffing-and-puffing did not work. Railsback's logic prevailed and the House agreed, by a 56-vote margin, to add the money.

The second case, involving the authorization for the National Foundation on the Arts and Humanities, was an even more striking victory over the know-nothingism many people suppose still dominates the House.

The six-year-old program, the cultural showpiece of the Great Society has somehow escaped President Nixon's scorn. In fact, he has been superb on the issue, making first-class appointments and strongly backing increased funds for the program.

The proposal before the House to increase funds, from the current $80 million to $145 million next year, was a bipartisan bill with White House backing. Nonetheless, it was a fat target for the know-nothings, and they had their predictable fun, with one congressman ridiculing a grant to "microfilm the principal archives of the island of Malta" and another inquiring, in mocking humor, if there was "any allowance for Buck Owens, Merle Haggard or Grand Ole Opry."

But then something remarkable happened. The know-nothings, found they had almost no support among their colleagues. The most derisive speech against the expanded culture program was answered, not by a spokesman for America's aesthetes or academics, but by Rep. Thaddeus J. Dulski of Buffalo, N.Y., who recited what the grants had meant in his city.

There were similar testimonials from other unexpected sources: from Mario Biaggi, the tough ex-cop from the Bronx; from Lloyd Meeds of Washington, telling how half the population of the San Juan islands turned out for a subsidized concert of the Seattle Symphony: from Orval Hansen Idaho, praising the Oinkara Basque dance tours; from Bill Cohen of Maine, talking of the Skowegan school of painting and sculpture from Barry Goldwater Jr., grateful for the aid in preserving classic films; and from Wiley Mayne of Iowa, thankful that professional artist Ray Frederick had been allowed to spend a year in residence at the Fort Dodge High School.

Minority Leader Gerald Ford confessed that he had opposed the program at its birth six years ago and had been skeptical when it contributed funds for the purchase of an Alexander Calder sculpture for the downtown renewal area of his home town of Grand Rapids, Mich.

"At the time," he said, "I did not know what a Calder was . . . but I can assure the members that Calder in the center of the city . . . has really helped to regenerate the city."

The House beat back a move to cut the authorization by over 100 votes and then passed the expanded programs by a 5-to-1 margin.

Before the vote Rep. Al Quie, the ex-farmer from Dennison, Minn., who has become one of the most respected Republicans in Congress, was moved to quote from Aleksandr Solzhenitsyn's Nobel lecture the observation that "Literature, together with language, protects the soul of the nation."

"With Solzhenitsyn," said the towering midwestern congressman, "I too believe that our creative artists have a vital role to play in helping to show mankind the way to oneness, brotherhood and peace . . ."

The sight of a Minnesota farmer quoting a Russian novelist to the House of Representatives does not prove the millenium has arrived. But it helps wash out the memory of a former attorney general explaining why he concealed a criminal conspiracy from the President of the United States. And for that, one can be grateful.

VIETNAM ALTERNATIVES

HON. ROBERT E. BAUMAN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 18, 1974

Mr. BAUMAN. Mr. Speaker, it is a remarkable fact that those who are so ready to criticize every action by the Republic of Vietnam maintain a deafening silence where the deeds of the North are concerned. The South is attacked for alleged cease-fire violations, yet not a word is said about the daily acts of terrorism and military aggression perpetrated by the North Vietnamese army.

A flood of propaganda abuse descends upon the United States for honoring its treaty obligations in the replacement of South Vietnamese equipment, but no mention is made of the 600 tanks, the 1,000 artillery pieces, the extra 50,000 men, the numerous airfields and missile sites, or the totally new and sophisticated weapons systems introduced into the South illegally since the cease-fire by the NVA.

President Thieu is painted as a monstrous dictator on account of the wartime restrictions imposed in the South, yet nothing is said about the total and brutal tyranny which prevails in the North. A great wail goes up to greet every case of mistreatment in a southern prison, whereas the existence of a northern prison system based on calculated and systematic torture is ignored. One would have thought that the experiences of our own POW's would have highlighted at least this aspect of Communist society.

Howard R. Penniman, professor of government at Georgetown University, and the author of a detailed and scholarly study on elections in South Vietnam, has recently written to the Washington Star-News setting out some of the justifications for continued American support for the people of Vietnam. I would like to help set the record straight by sharing his thoughts with a wider audience, and insert his letter as it appeared on June 29, 1974:

VIETNAM ALTERNATIVES

Critics of aid for South Vietnam refuse to face the realities of their position. They talk of cease-fire violations by both sides. Yet, the major violations are those committed by North Vietnam. The North has increased its troop strength in the South since the cease-fire, attacked South Vietnamese cities, refused to allow the International Commission for Control and Supervision to investigate alleged treaty violations in communist zones, and failed to designate points of entry to allow inspection of incoming military supplies. Each of these violates explicit provisions of the agreements. No comparable violations can be legitimately charged against South Vietnam.

Second, critics say that more aid means throwing good money after bad since South Vietnam can't survive anyway. But, these are the same critics who predicted the government would collapse as soon as American troops left in March 1973. If they block aid long enough, maybe they can force their prophecies to come true.

Third, critics say they don't want to aid an anti-democratic regime. While the Government of (South) Vietnam (GVN) is not a model of liberal democracy, it looks very good indeed when compared with North Vietnam, which would take control if the South were defeated. Two brief comparisons may illustrate the point.

In South Vietnam there are 16 Vietnamese language papers of which 13 are classified either as "independent" or "opposition" papers. There is, unfortunately, censorship of occasional articles in the name of national security. Nonetheless, reading the Saigon press suggests that papers can and do regularly and sometimes vigorously criticize the government and its policies.

Opposition candidates can compete and win South Vietnamese elections that are held as constitutionally scheduled. President Thieu's supporters did not control a majority in the Senate from 1967 to 1973. A mere 40 of 119 candidates seeking re-election to the lower house in 1971 were returned by the voters. The 1971 presidential election was uncontested only because both Nguyen Cao Ky and Duong Van ("Big") Minh chose to withdraw after having qualified for the race.

The contrast in North Vietnam is clear. All newspapers are controlled by the government and are always favorable to it. All candidates for the national assembly must be approved by the communist Fatherland Front. In the four elections that have been held at irregular intervals since 1946 not a

single member of the national assembly has ever been defeated.

The continued loyalty of the military (at all levels) to the South Vietnamese government, the increased support by the peasants (roughly a million of whom have gained title to their land since 1970), and the decline of urban opposition testify to the preference of South Vietnamese voters for their limited democracy rather than communist control by the North.

Most congressmen who face up to the facts, as realistically as the South Vietnamese themselves, should resist major cuts in the aid to South Vietnam. To seriously cut the aid package is to encourage the dictatorship of the North; to support adequate aid is to at least make the continued development of democracy possible.

COMMITTEE REFORM—A VITAL NECESSITY

HON. ALBERT H. QUIE

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 18, 1974

Mr. QUIE. Mr. Speaker, the committee reform proposals have been languishing, awaiting House action for over 3 months, and it is time for the House to act.

I congratulate Chairman BOLLING for requesting a hearing before the Rules Committee to consider granting a rule on the Select Committee on Committee's recommendations contained in House Resolution 988. He and his committee have done excellent work in studying committee jurisdiction thoroughly and agreeing on some wide-ranging recommendations to be effective in the 94th Congress. The results show that opinions were sought from many quarters knowledgeable on congressional operation, and incorporated into a comprehensive package designed to enhance House consideration of legislation in a deliberate, but also efficient manner.

No one can call the Bolling recommendations biased or partisan, in view of the fact that the committee was equally balanced between Democrats and Republicans. The Republicans on the committee, headed by the distinguished DAVE MARTIN, contributed mightily to the final product and can be justly proud of their contribution.

It was my privilege to appear before the Select Committee and submit a number of ideas. It is pleasing to me that my suggestion to split the Education and Labor Committee was adopted. I also emphasized the need for greater congressional oversight over the operation of the executive agencies and am happy the Select Committee on Committees recommends the establishment of an oversight subcommittee in each of the legislative committees.

The July 15 Washington Post carried a story to the effect that a committee of the Democratic Caucus has completed its hatchet job on the committee recommendations. According to this report, it would appear that the bipartisan Bolling reforms have been weakened and some strongly needed reforms have been dumped. Almost all of the recommendations would be slashed to make them offensive to no one in the House, while destroying much of the fine work of the Committee on Committees. It would appear that the present committee structure will be largely retained thereby appeasing objections of sitting chairmen. Combining and coordinating committee jurisdictions would be reduced to offset additional objections at the cost of meeting some of the principal goals of the Committee on Committees.

Mr. Speaker, the American public deserves much better treatment from the majority in the Congress in order to restore confidence in this body. I urge fair-minded individuals in the House to join Chairman BOLLING in seeking consideration of the Committee on Committees' recommendations. Responsibility for failure of the House to adopt improvements in committee jurisdiction and operation in the near future must be placed squarely upon the Democratic Caucus.

EARL WARREN

HON. EDWARD R. ROYBAL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 10, 1974

Mr. ROYBAL. Mr. Speaker, the passing of Earl Warren is a great loss to all Americans and I join my colleagues in paying tribute to his memory.

He was, indeed, a public servant in the truest sense. Born and raised in California, Earl Warren served his native Californians for over 30 years—from clerk of the judiciary committee of the assembly to district attorney of Alemeda County to attorney general to Governor—before being appointed Chief Justice of the United States.

In 1946, Warren won both the Republican and Democratic nominations in his first reelection for the office of Governor. He was by far one of the most popular and highly respected Governors of California. After an unprecedented three terms as Governor, Warren announced that he would not seek a fourth term, because he believed that a periodic change was necessary to renew our democratic system. Five days after this announcement, Chief Justice Fred Vinson died, opening the highest judicial post in the Nation. Within the same month, September 1953, President Eisenhower appointed Warren as Chief Justice of the U.S. Supreme Court.

During his 16 years as Chief Justice, Warren served the people of our country with courage and conviction. His concern was to protect the rights of the people. In doing so he faced controversy and even cries for impeachment.

Under Warren, the Supreme Court handed down landmark decisions in every aspect of constitutional law. Their decisions expanded the breadth of the commerce clause, broadened the reach of the due process clause of the 5th and 14th amendments regarding civil rights and rights of defendants, and expanded the scope of the 1st amendment rights in the area of privacy.

What stands out, above all else, was Warren's belief in individual rights and freedoms. The Miranda against Arizona decision was crucial in protecting and guaranteeing the legal rights of individuals. One of the best remembered decisions of the Warren Court is Brown against the Board of Education, which declared racial segregation in the public school to be unconstitutional. Another extremely significant decision handed down during his tenure as Chief Justice set forth the one-man, one-vote doctrine, making the weight of each citizen's vote equal, regardless of place of residence.

Earl Warren, though concerned with protecting the rights of all the people, realized in turn the need for a responsible citizenship in order to maintain our democratic way of life. Those entrusted with the care of the government must maintain a vigilance, but "in our country those responsible are 'we, the people'—no one else." This thought was brought out in Warren's only book, "A Republic, If You Can Keep It."

He based his book on the need for responsible citizenship and believed that all of us must fulfill our obligations as citizens to protect and preserve the freedoms guaranteed by the Constitution, particularly those set forth in the Bill of Rights. Earl Warren has certainly fulfilled his obligation as a citizen, through his efforts to guard those liberties which Americans hold so dear.

His sense of fairness and responsibility to the people have made him truly one of the greatest Chief Justices of the United States and his life itself has been a tribute to the public servant of the highest caliber.

CAPTIVE NATIONS: A NEW LOOK

HON. JAMES C. CLEVELAND

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 18, 1974

Mr. CLEVELAND. Mr. Speaker, during more than 11 years in Congress, I repeatedly have called attention to the plight of peoples under Soviet domination. Those years have seen significant changes in our relationship with the Soviet Union, though what many have viewed as progress has often proven more apparent than real. Despite these changes—and I do feel we have at least set the stage for continuing improvements—it is fitting that we again pause to observe Captive Nations Week at this point in our history.

In view of all too many, the cold war's significance is limited to the Soviet expansionism in the post-World War II years and our response to it. Thus it has been proclaimed at an end repeatedly, only to be recognized anew with a Hungary, a Berlin crisis, a Cuba, a Czechoslovakia, or Communist aggression in Korea and Southeast Asia. We have heard theories of convergence, a mellowing of the Soviet Union, and the preposterous notion that the cold war somehow was made in the United States. But we who observe Captive Nations Week and those people whose plight we com-

memorate know the true history. We recall the new Soviet imperialism that absorbed the Baltic States in the early 1940's and, during World War II, set the stage for postwar takeovers elsewhere in Eastern Europe.

Why do I recite this history at a time when the President has launched a period of negotiations and apparent détente? It is not to question prospects for peace or the President's policies for its pursuit. I repeat: I am convinced that after so many false starts and false hopes we have set the stage for improvement in our relationships.

But I do not delude myself that the milennium is at hand. The grim record of the past indicates both how far we have come and how far we yet have to go.

The lessons of recent history show that for agreements to mean anything they must reflect the genuine interests of the parties. Pledges of cooperation must be followed by a cumulative series of concrete steps to ease tensions. Agreements attained through strength cannot be maintained through weakness.

Any negotiations worthy of this great Nation must assure that those victimized by the hostilities we seek to end must share in the benefits. We must insist on real, measurable, and irreversible expansion of freedom in any long-range settlement.

We have legitimate leverage and must use it. The Soviet Union is being forced to look outward. It is grudgingly responsive to world opinion if strong and sustained, and channeled into the process of determining public policy. The decreased restrictions on emigration of Jews from the Soviet Union represent one hopeful example. In the same vein, our task is to maintain and increase pressure for a genuine opening of freedom of thought, movement, and expression in captive nations which hopefully in time will lead to the evolution of full freedoms in those countries whose loss of liberties we have mourned so long.

The long road to détente will be arduous and the best prospects for success will lie in guidance by the same sense of history shared by those who grasp the full meaning of captive nations. The same realities should be kept in mind too, as we continue to make judgments in the areas of troop strength, overseas deployment, weapons systems, and war powers.

WEAL-ABZUG ANALYSIS OF TITLE IX SEX DISCRIMINATION REGULATIONS

HON. BELLA S. ABZUG

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 18, 1974

Ms. ABZUG. Mr. Speaker, last month the Department of Health, Education, and Welfare issued the long awaited and long delayed regulations implementing title IX.

These regulations forbid sex discrimination against students and employees in all federally assisted education programs. They are currently being offered for comments by HEW. Because of the important nature of these regulations and because of their complexity the time period for comment has been extended beyond the normal 30-day period. These regulations will be open for comment until October 15, 1974.

To assist in analyzing these long and significant regulations, I, with the very able assistance of the Women's Equity Action League, have prepared our own comments. I would like to take this opportunity to insert them in the CONGRESSIONAL RECORD:

WEAL-ABZUG PRELIMINARY ANALYSIS OF PROPOSED TITLE IX REGULATIONS

INTRODUCTION

Proposed Title IX regulations forbidding sex discrimination against students and employees in all federally assisted education programs, were finally issued by the Department of Health, Education, and Welfare on June 18, 1974, in the Federal Register.

Because these regulations will affect educational institutions for many years to come, it is essential that as many women's organizations and individuals as is possible submit comments to HEW. Educational institutions are expected to bring substantial pressure on the Secretary of HEW to water down the regulations and keep them as weak as possible.

WEAL and Rep. Abzug have prepared the following preliminary detailed analysis of the regulations in order to assist persons and groups filing comments. It is not necessary that comments to HEW be as detailed as the WEAL-Abzug analysis; comments can be as short as "Our organization regrets the deletion of the Title IX proposed regulation exempting Rhodes Scholarships," or they can be as detailed as the WEAL-Abzug analysis. Where possible, a rationale for the comment should also be included. Individuals and organizations can also write supporting the WEAL-Abzug analysis, although comments written about specific items are especially valuable.

Although most of the following recommendations are of enormous importance, your attention is specifically called to the following items:

(1) *Textbooks and curriculum* (general comment 2): This area is *not* covered by the proposed regulations, and the Secretary has specifically requested comments about the omission. There is no requirement that institutions develop procedures to evaluate materials for sexist bias.

(2) *Admissions to private undergraduate vocational or professional schools* (see comment under 86.2(n)): The regulations exempt such schools from the admissions requirements of Title IX. A policy decision by HEW could include them.

(3) *Remedial and Affirmative Action* (see comments under 86.3(a) and (b), 86.23, 86.31 and 86.38(c): Remedial action is required only when there has been past discrimination; affirmative action is *optional*. No self-analysis by the institution is required. nor are any written programs required.

(4) *Time Frame* (see comments under 86.3(a) and (b), 86.23, 86.31, 86.31(c)(2), 86.38(c), 86.62(b), 86.62(d), 86.63): Time frames, such as those for the implementation of remedial action and for various investigative and enforcement procedures, are notably absent.

(5) *Financial Aid* (see comments under 86.35(a)(1) and (2)):

(a) The regulations prohibit single-sex fellowships and awards. Comments are needed to support this provision, because institutions are expected to oppose it due to the difficulty in changing wills, trusts and bequests.

(b) Rhodes Scholarships and any other aid initiated by a *foreign* will, trust or bequest or by a foreign government can continue to choose recipients on the basis of sex. This provision should be opposed.

(6) *Athletics* (see comments under 86.35(d) and under 86.38ff.): This is perhaps the most controversial area of the proposed regulations. Institutions and male-dominated athletic organizations are expected to heavily pressure HEW for watered-down regulations. Earlier drafts of the regulations were weakened after such pressure. WEAL has attempted to take a middle-of-the-road position because such a position has a provisions because of the costs involved.

(7) *Fringe Benefits for Part-Time Employees* (see comments under 86.41(a)(1)): The proposed regulations currently call for permanent part-time employees to receive pro-rated fringe benefits in some instances. The Secretary has requested comments on this. Institutions are expected to oppose the provisions because of the costs involved.

(8) *Pensions for Employees* (see comments under 86.46(b)(2)): As currently written, the regulations allow equal contributions *or* equal benefits. Thus TIAA and other pension plans which pay women less per month upon retirement (because ostensibly they live longer) can continue to discriminate. The provision violates the Sex Discrimination Guidelines of Title VII. The Secretary has requested comments on this, particularly concerning the adoption of unisex actuarial tables. WEAL supports unisex tables.

(9) *Pregnancy and Leave for Employees* (see comments under 86.47(e)(1) and (2)): The regulations treat pregnancy differently from other temporary disabilities by requiring advance notification of delivery date, certification by a physician of ability to work, and allowing institutions to delay return to work until the beginning of the following academic semester.

(10) *Procedures for Investigations, Compliance, Hearings and Review* (see comments under Subpart F, 86.61 ff.): Individuals who file complaints under Title IX are denied due process. For example, there is no appeal procedure for complainants, although recipients can appeal unfavorable decisions. Other procedural deficiencies are noted in the comments.

While we note that the procedures for Title IX are somewhat more cognizant of complainants rights than those in Title VI (after which Title IX is patterned), we request that changes in Title IX regulations that enlarge the rights of complainants be incorporated into the Title VI regulations as well. The procedural requirements of both Acts should be identical.

Copies of the regulations can be obtained by writing the Secretary of HEW, Washington, D.C. 20201.

The comment period ends October 15, 1974. WEAL would appreciate receiving copies of comments sent to HEW. Copies of comments and questions should be sent to WEAL, National Press Building, Washington, D.C. 20004.

II. OUTLINE OF WEAL PRELIMINARY ANALYSIS

A. General

1. Examples of Discrimination.
2. Textbooks and Curriculum.

B. Section-by-section analysis

(Headings following the section number refer to the subject matter of the comments and do *not* follow the headings used in the proposed regulations.)

86.2(g)(5) Definition of Federal Financial Assistance: Restrictive Definition of Contracts.

86.2(j) Definition of Educational Institutions.

86.2(n) Definition of Institution of Vocational Education.

86.2 (m) and (n) Coverage of Private Undergraduate Professional and Vocational Schools.

86.3 (a) and (b) Remedial Action and Affirmative Action.
86.4 Assurances of Compliance.
86.6(a) Relationship of Title IX to Other Federal Provisions.
86.6(b) Effect of State and Local Law.
86.8 Designation of Employee.
86.9(a) Notification of Policy.
86.9(a)(2)(iii) Written Communication of Policy Within 90 Days.
86.9(b)(1) Publications.
86.21(b) Admissions of Part-Time and Older Students.
86.22 Preference in Admission to Students who Attend Particular Institutions.
86.23 Recruitment, Remedial and Affirmative Action in Admissions.
86.31 Remedial and Affirmative Action in Programs and Activities.
86.31(b)(6) Residency Rules.
86.31(b) Support of Discriminatory Organizations That Do Not Serve Students or Employees.
86.31(b)(7) Support of Discrimnatory Organizations That Provide Services to Students or Employees.
86.31(c)(2) Programs not Operated by Recipients Which Are Part of the Recipient's Educational Activities.
86.34 Course Offerings in Physical Education and Other Areas.
86.34(c) Appraisal and Counseling Materials.
86.35(a)(1) Financial Assistance.
86.53(a)(2) Exemption for Rhodes Scholarships.
86.35(d) Athletic Scholarships.
86.3 Gynecological Care, Health, Insurance Benefits and Services.
86.38(b) Athletic Interest Survey.
86.38(c) Athletics and Affirmative Efforts.
86.38(c)(1) Informing Students of Equal Athletic Opportunities.
86.38(c)(2) Support and Training Activities in Athletics.
86.38(d) Equal Opportunity in Athletics.
86.38(e) Equal Opportunity and Separate Teams for Each Sex.
86.38(f) Equal Expenditures in Athletics not Required for Each Sex.
Subpart E Employment: General Discussion.
86.41 Part-Time Employment.
86.41(a)(1) Part-Time Employees and Fringe Benefits.
86.44 Compensation.
86.46(b)(2) Equal Pensions.
86.47(e)(1) Pregnancy and Notification to Employer.
86.47(e) (1) and (2) Pregnancy and Physician Certification.
86.47(e)(2) Pregnancy-Maternity Leave and Teachers.
86.51 Sex as a Bona Fide Occupational Qualification.
86.51 Bona Fide Occupational Qualifications and Locker Rooms.
Subpart F Procedures: General Discussion.
86.61(b) Compliance Reports.
86.61(c) Confidential Information and Disclosure by HEW.
86.62(b) Who May File Complaints.
86.62(b) Notification of Complaints.
86.62(c) Investigations and Contact with Complaints.
86.62(d) Notification of Investigations and Results.
86.62(d) Investigations and Letters of Findings.
86.63 Noncompliance and Delay in Awarding Financial Aid.
86.64(e)(1) Travel Paid for Witness.
86.64(b) Time and Place of Hearing.
86.64(c) Participation by Complaints as *Amicus Curiae*.
86.64(d) Right to Counsel.
86.64(e)(1) Travel Paid for Witnesses.
86.65(b) Reviews by Reviewing Authority.
86.65(e) Review by the Secretary.

III. WEAL PRELIMINARY ANALYSIS

A. General comments

1. *Examples of discrimination:* Although examples of discrimination are given in the fact sheet that accompanied the regulations, there are few examples given in the regulations themselves. Since the fact sheet has no legal status and was not printed in the *Federal Register*, institutions and individuals will lack guidance as to the specific applications of Title IX.

Recommendation: Examples of what the regulations allow or prohibit should be incorporated into the regulations themselves.

2. *Textbooks and curriculum:* These areas are not covered by the regulations although there is no exemption for textbooks and curriculum in the law itself. HEW is concerned about infringements of the right of freedom of speech, and has therefore omitted all references to this area. The Secretary has requested comments on this issue.

Since school systems and many university units, such as departments, have already existing mechanisms to review curriculum materials along other lines, the development of procedures by the institution to review curriculum materials for sexist bias could easily be incorporated into these already existing mechanisms. This would allow institutions to handle the issue without danger to the freedom of speech.

WEAL notes that insofar as texts are chosen by state and local Boards of Education, the choice of sexist texts represents state action in the perpetration of sex discrimination, which is contrary to federal law. WEAL also notes that freedom of speech is a right guaranteed to *individuals*, and that the selection of texts by state and local agencies is not generally seen as abridging that right.

Recommendation: HEW should require institutions to develop procedures for reviewing and evaluating textbooks and curriculum for sexist bias, as well as developing procedures for handling complaints in this area.

*B. Section-by-Section Analysis**

86.2(g)(5) *DEFINITION OF FEDERAL FINANCIAL ASSISTANCE: RESTRICTIVE DEFINITION OF CONTRACTS:* As currently written, contracts which do *not* have as their *purpose* "the provision of assistance" to an educational institution would *not* qualify as federal aid covered by Title IX, and thereby some institutions, even though they might receive federal contracts, would be exempt from the provisions of Title IX. Section 902 of Title IX does not mention *purpose;* "financial assistance" is not defined.

Recommendation: All contracts, *regardless of purpose* should be covered by the regulations, since *all* contracts benefit and assist the institution, regardless of their purpose.

86.2 (j) *Definition of Educational Institutions:* The regulations define institutions in such a way so that apparently they do *not* cover federally funded education programs in non-educational settings, such as those operated by community organizations.

Recommendation: All institutions and organizations operating *any* educational programs funded by the federal government should be covered by the regulations.

86.2 (n) *Definition of Institution of Vocational Education:* The regulations are not clear as to whether programs such as Job Corps, Manpower Training, and various poverty programs that involve job training, are covered by Title IX. (The Comprehensive Manpower Act (S. 1559), signed by the President on December 28, 1973, specifically forbids sex discrimination in programs funded by that Act.) Thus the Congress has reaffirmed the national policy to end discrimination in all federally funded vocational programs. The legislative history of Title IX is clear in its intent to cover *all* vocational programs.

Recommendation: The regulations should clearly cover *all* vocational training programs funded by the government whether or not the program occurs in an educational institution or school or *in any other setting.*

86.2 (m) and (n) *Coverage of private undergraduate professional and vocational school:* Title IX exempts admission to private undergraduate institutions, but prohibits discrimination in admission to all vocational and professional schools at all levels of education. The proposed regulations exempt *all schools which fall into both categories*—private undergraduate vocational and/or profession schools, such as schools of engineering, teaching, architecture, business, etc.—even though the Act is silent as to whether or not such schools are exempted from the admissions requirements of Title IX. However, in other legislation (such as the Comprehensive Health Manpower Act of 1971, amending the Public Health Service Act) the Congress has clearly prohibited sex discrimination in admissions to vocational or professional training programs operated by *private* institutions. WEAL sees no justification for exemption of schools that provide undergraduate training in engineering, business, etc., when discrimination is prohibited at the *secondary* vocational school, at the *post-graduate* vocational programs operated by *private* non-educational organizations.

Recommendation: The regulations should prohibit discrimination in admissions to all private undergraduate vocational and/or professional training programs.

86.3 (a) and (b) *Remedial action and affirmative action:* The regulations require remedial action by institutions which previously discriminated; affirmative action is *optional* on the part of the institution in terms of overcoming effects of conditions which have resulted in limited participation by one sex. It is not clear whether the institution or HEW (or both) determines whether or not remedial action is required, or if a formal finding of discrimination is necessary for an institution to develop a remedial program. *No self-evaluation by the institution is required* to assess past discrimination. Without such evaluation, institutions are not likely to know discrimination exists, nor to develop means of overcoming limited participation.

WEAL notes that affirmative "efforts" are *required* in the area of athletics "with regard to members of a sex for which athletic opportunities previously have been limited" [86–38 (c)]. We do not understand why affirmative "efforts" are *required only in the athletic area,* and not in admissions and in the treatment of students in areas other than athletics.

Recommendation: (1) Remedial action should be required when the institution has discriminated regardless of whether or not a formal finding by HEW has been made.

(2) Institutions should be required to evaluate, in writing, all programs and policies for discrimination and to insure that remedial efforts are undertaken when necessary.

(3) Such a study should be completed no later than 180 days after the effective date of the regulations and annually thereafter.

(4) The results of such a study and written plans for remedial and affirmative action should be made public.

(5) *A written plan of affirmative action* should also be *required* for all programs to overcome the effects of conditions which have limited participation of persons of one sex.

* Headings following the section number refer to the subject matter of the comments and recommendations and do *not* follow the headings used in the proposed regulations.

(6) Definition and examples of past discrimination should be given in the regulations.

86.4 *Assurances of compliance:* The regulations require that recipients of federal aid submit assurances of compliance on a form to be determined by the Director of The Office for Civil Rights. HEW is currently developing the proposed compliance form. It is essential that the form request various kinds of data rather than a simple promise of compliance. Forms with data will help institutions assess whether or not they are discriminating.

Recommendation: (1) The proposed compliance form should not only cover admissions but *also treatment of students* already enrolled.

(2) Data should be requested in all areas of student activity, including athletics and extra curricular activities.

(3) The proposed compliance forms should be developed with input from women's groups.

86.6 (a) *Relationship of title IX to other Federal provisions:* The regulations state "The obligations imposed by this part are independent of obligations not to discriminate on the basis of sex imposed by [other regulations and statutes] . . ."

Recommendation: It would be clearer if the regulation read: "The obligations . . . are independent of *and do not alter* obligations not to discriminate . . . (add italicized portion).

86.6 (b) *Effect of State and local law:* The regulations state that state and local laws cannot alter or alleviate the obligation to not discriminate if the State or local law limits, on the basis of sex, the eligibility of *students or applicants* to practice any occupation or profession. The regulation does not cover *employment* of persons by the institution where state or local law is prohibitive.

Recommendation: The words "employee or applicant for employment" should be added wherever the word "student" appears to insure that recipients are aware that state or local laws concerning employment by the institution are superseded by Title IX.

86.8 *Designation of employee:* Each recipient must appoint an employee to coordinate compliance efforts, including investigation of complaints. The regulation does not provide that there be written procedures for resolution of complaints or that records be kept. It does not make clear that complainants *do not have to use the internal complaint process before filing a complaint with HEW,* or that the resolution of the complaint in no way forbids an individual from subsequently filing, and is not binding *in any way* on HEW investigations or action. Moreover, a current employee could be designated without having any released time to perform the duties, which would result in a non-effective position. No written records are required to be kept.

Recommendation: (1) The designated employee shall have released time to perform the duties required for compliance.

(2) Institutions or school systems with more than 3,000 students (full-time equivalent) shall have at least one full-time employee assigned to such duties.

(3) Such employee shall report directly to the head of the institution.

(4) The designated employee shall conduct self-evaluation studies, with recommendations, at least once annually, and to be released publicly.

(5) The employee will develop a written procedure for internal resolution of complaints.

(6) Students and employees shall be notified of the appointment of such person and that procedures exist for resolution of complaints.

(7) Upon filing of a complaint with the employee, all students and employees shall be informed that the individual has a right at anytime to file a formal complaint with HEW.

(8) Written records of all complaints and resolutions shall be maintained for a period of three years.

(9) Complaints resolved by the designated employee are in no way binding on the government.

86.9 (a) *Notification of policy:* Applicants for admission, students, employees, counselors of applicants for admission or employment, and other interested parties are required to be notified of the non-discriminatory policy of the recipient. The regulations also require that *inquiries* concerning the application of Title IX be referred to the Director. Such persons are not likely to know that *complaints* as well as inquiries can be referred to the Office for Civil Rights.

Recommendation: (1) The regulation should state that inquiries *and complaints* may be referred to the designated employee *or* to the Director *of the Office for Civil Rights* (add underlining for clarification).

(2) Alumni organizations for colleges and universities should also be notified.

86.9(a)(2)(iii) *Written communication of policy within 90 days:* All students and employees are required to be notified by some form of memoranda or other written communication. There is no requirement that *applicants for admission or employment* be notified within the 90 day period; there is *no* time period within which they must be notified. Parents of elementary and secondary school students are not required to be notified. This is essential at this level if notification is to be meaningful, since parents can play an effective role in monitoring sex discrimination by schools.

Recommendation: (1) Applicants for admission and employment (as well as those inquiring for admission) should be notified within 90 days after the effective date of the regulations.

(2) Parents of elementary and secondary school students should be notified in writing.

86.9(b)(1) *Publications:* The regulations require that the statement of policy be included in announcements, bulletins, catalogs, application forms and other recruiting forms. There is no requirement to include the statement of policy in publications other than those aimed at *recruiting* students or employees.

Recommendation: All publications (not only those used in recruiting) published 90 days after the effective date of the regulations should include the statement of policy.

86.21(b) *Admissions of part-time and older students:* There are no prohibitions concerning treatment of part-time or older students. Since many women attend school part-time and/or at a later age because of family responsibilities, any restrictive policy concerning age or part-time attendance (including restrictions on part-time financial aid) has on women. The U.S. Supreme Court in *Griggs* v. *Duke Power Co.* (401 U.S. 424 (1971)) enunciated the principle that any policy that is fair on its face and ostensibly neutral but *has a disproportionate impact on a protected class* and which cannot be justified by business necessity *is discriminatory.* This principle should be included in the regulations to aid institutions in their evaluation of discriminatory practices and policies.

Recommendation: (1) There should be a specific prohibition against policies and practices which, although ostensibly neutral, have a disproportionate and detrimental effect on women, unless the policy can be justified by business necessity.

(2) The regulations should prohibit restrictive policies concerning part-time attendance (including financial aid for part-time students). This would also make the section parallel with the section relating to employment (86.41(a)(1)) where part-time a disproportionate and discriminatory impact employees are already mentioned in the regulations.

(3) The regulations should prohibit restrictive policies concerning age as a criteria for admission.

86.22 *Preference in admission to students who attend particular institutions:* Institutions cannot give preference in admissions to applicants on the basis of attendance at a school which is single-sex or predominantly one sex if the giving of such preference has the effect of discriminating on the basis of sex.

The introduction *preceding* the regulations (but not the regulations themselves) spells this out in greater detail: preference can be given if the pool of applicants eligible for such a preference includes roughly equivalent numbers of males and females *or* if applicants eligible to receive such preference is insignificant in comparison to the total pool. Thus it would be possible for a school to deny admission to *some females* who were better qualified than some of the males who were admitted (because they were given preference on the basis of their having attended a specific school which in turn was discriminatory in its admissions policy). The material in the Introduction suggests therefore that *individual* cases of discrimination, such as in the preceding example, would be allowable, *as long as the number of people involved was small.* Such preference results in discrimination and is a violation of Title IX. For example, preference in graduate school given to Amherst graduates, even though a small number, might result in some women who attended Wellesley or other colleges being denied admission, even though they might have been better qualified than the Amherst students.

Recommendation: No special preference should be allowed for applicants who attend institutions that in turn limit their students on the basis of sex.

86.23 *Recruitment, remedial and affirmative action in admissions:* Remedial action *may* be required, but the regulations do not state the conditions under which it would be required (see comments and recommendations under 86.3 (a) and (b)). No assessment is required, nor is any definition of past discrimination given. No self-evaluation by the institution is required. Affirmative action is optional; it is required *only* for previously single-sex institutions. No examples of remedial or affirmative action are given.

Recommendation: (1) A written plan of remedial action should be required of all institutions that previously discriminated in admissions. The written plan should be disseminated by the institution.

(2) A written plan of affirmative action should be *required* in all institutions and programs that have a disproportionate enrollment of either sex. The written plan should be disseminated by the institution.

(3) A self-assessment study of current and previous practices and policies should be conducted by the institution annually and made public.

(4) The first self-evaluation study shall be done no later than 180 days after the effective date of the regulations.

(5) Examples of permissible remedial and affirmative action in recruiting should be given.

(6) At the graduate level, where individual schools and departments make admissions decisions, they should be required to assess past discrimination and, where necessary, should be required to have a written plan of remedial or affirmative action.

86.31 *Remedial and affirmative action in programs and activities:* Remedial and affirmative action is specifically mentioned in the previous section concerning *admissions* (86.23). It is *not* mentioned in this section regarding treatment of students other than in the section on athletics (86.38). Although Subpart A–Introduction does state that re-

medial action is required when the institution has previously discriminated in an education program or activity, no mention of this occurs in this section, nor is affirmative action suggested. No self-assessment is required.

Recommendation: Comments and recommendations under 86.3 (a) and (b) apply here as well.

(1) This section should include a requirement of a written plan of remedial action for all programs and activities that previously discriminated. The written plan should be disseminated by the institution.

(2) A written plan of affirmative action should also be *required* in all programs and activities that have a disproportionate participation by one sex. The written plan should be disseminated by the institution.

(3) A self-assessment study of current and previous policies and practices of all programs and activities should be required of the institutions, conducted annually, and the results should be disseminated by the institution.

(4) The first self-evaluation study shall be completed within 180 days after the effective date of the regulations and annually thereafter.

(5) Examples of permissible remedial and affirmative action should be included in the regulations.

(6) Where programs have been discriminatory previously, such as single-sex courses, single-sex summer science programs, single-sex orchestras, discouragement of participation by one sex, etc., students should be notified of the change in policy in the manner prescribed in 86.9(a).

(7) Examples of past discrimination should be included in the regulations.

86.31(b)(6) *Residency rules:* Institutions cannot apply discriminatory rules concerning the domicile or residency of a student or applicant.

Recommendation: For purposes of clarification, the following words should be added: "*including eligibility for in-state fees.*"

86.31(b) *Support of discriminatory organizations that do not serve students or employees:* There is *no* provision forbidding institutions from aiding discriminatory organizations that do *not* provide benefits or services to students or employees. (See next section for prohibition against aiding discriminatory organizations that *do* provide services.) Thus a single sex organization, such as the Jr. Chamber of Commerce, could meet and conduct programs on school property. Had the Little League remained single sex, it would have been allowed to use college playing fields. The provision encourages and condones discrimination and violates the spirit and letter of Title IX.

Moreover, it allows the posting of notices and use of campus or school in-house communications for disseminating information about organizations that discriminate.

Recommendation: Institutions should be prohibited *from aiding in any way any organization that discriminates on the basis of sex,* including the posting of notices and the dissemination of information through in-house communications.

86.31(b)(7) *Support of discriminatory organizations that provide services to students or employees:* The regulations prohibit assistance to discriminatory organizations that provide services or benefits to students and employees. The introductory materials *preceding* the regulations dilute this provision by stating that the criteria would be the *substantiality* of the relationship, which implies that in *some* instances, discriminatory organizations could be assisted.

WEAL knows of no legislative or legal reasoning that would allow *some* discriminatory groups in *some* instances to receive assistance from a federally-assisted institution. The criteria are vague and would allow for the continuance of discrimination. For example, would an employee credit union be allowed to discriminate against women in the granting of loans? Would posters concerning discriminatory fellowships be allowed on bulletin boards?

Recommendation: No exceptions or exemptions should be allowed in the prohibition of assistance to any organization that discriminates, including the posting of notices and the dissemination of information through in-house communications.

86.31(c)(2) *Programs not operated by recipients which are part of the recipient's educational activities:* The recipients must develop and implement a procedure to insure non-discrimination against applicants, students and employees. There is no time frame given for this to be done, nor is there any requirement that the procedures be in writing.

Recommendation: (1) These procedures should be developed and implemented no later than 180 days after the agreement between the recipient and the organization is affectuated, or, in the event of an already existing agreement, no later than 90 days after the effetcive date of this regulation.

(2) The procedures should be in writing and disseminated to participants and applicants for the program.

(3) These procedures shall include remedial or affirmative action where discrimination has previously occurred or if there is a disproportionate participation of one sex.

86.34 *Course offerings in physical education and other areas:* The regulations require that all course offerings, *including physical education classes,* be integrated. Institutions and school systems are expected to oppose this provision. *Comments are needed to support this provision,* which is consistent with Title IX and its legislative history.

Recommendation: The requirement for all integrated courses, including physical education classes, should be retained.

86.34(c) *Appraisal and counseling materials:* Different materials canont be used for each sex, nor can materials be used which require or permit different treatment of students on the basis of sex. No mention is made of stereotyped materials which portray women in negative ways and discourage them from entering many fields.

Recommendation: (1) Schools should be required to develop procedures to review and evaluate counseling and appraisal materials for sexist bias, and to develop procedures for handling complaints in this area.

(2) These procedures should be developed no later than 180 days after the effective date of the regulations.

86.35(a)(1) *Financial assistance:* The regulations forbid single sex scholarships, fellowships, etc. Since many of these are limited to one sex because of wills, trusts, and bequests, *institutions are likely to oppose this provision,* claiming that it will be difficult to break the wills, etc. WEAL notes, by analogy, that wills discriminating on the basis of race, such as in the establishment of an all-white school, have been ruled invalid by the courts. The fact that changing wills, trusts and bequests may involve some difficulties is no reason to continue discrimination. *Comments are needed to support the prohibition of single sex fellowships, scholarships, etc.*

Recommendation: The regulations should continue to forbid all single sex financial awards, whether or not they exist because of wills, trusts, bequests, etc., nor shall dissemination of information about single sex awards be allowed.

86.35(a)(2) *Exemption for Rhodes Scholarships:* Scholarships, fellowships, etc. established by *foreign* wills, trusts, etc., including *foreign* governments, are *exempted* from the provisions prohibiting single sex financial awards. This allows the Rhodes Scholarships to continue selection of students on the basis of sex and to allow institutions to participate in and sponsor the Rhodes Scholarships. WEAL notes that there is *nothing in the legislative history of Title IX to justify such an exemption.*

WEAL also notes that several institutions, including Harvard, have nominated outstanding women for Rhodes Scholarships: these women were rejected *solely on the basis of their sex.* WEAL also notes that if Rhodes Scholarships did not allow minorities, the institutions would be in violation of Title VI. Since Title IX parallels Title VI, WEAL sees no reason to allow an exemption on the basis of sex discrimination that is prohibited on the basis of race discrimination. *Comments are needed to delete this exemption.*

Recommendation: The exemption for scholarships and fellowships established by foreign wills or governments should be deleted.

86.35(d) *Athletic scholarships:* The regulations allow for athletic scholarships for each sex when there are separate teams for members of each sex. The regulations are not clear as to whether the total number of such single sex scholarships must be equal (or comparable), or what is required when there are no separate teams for each sex.

Recommendation: The regulations should state that women and men should have equal opportunities for financial assistance based in whole or in part on athletic ability in proportion to the numbers of students of each sex deriving benefit from the programs.

86.36 *Gynecological care, health, insurance benefits and services:* The regulations forbid discrimination in health, insurance benefits and services. Institutions *may* but are *not required* to provide benefits or services which may be used by a different proportion of students of one sex, including services such as family planning. Although section 86.37 (b)(2) requires that *disabilities related to pregnancy* be treated the same as any other temporary disability (such as in terms of insurance, services and other benefits), there is no such requirement for treating gynecological problems the same as other temporary disabilities. Apparently, institutions could provide health services for men's urological problems but not for non-pregnancy related gynecological problems.

Recommendation: To the extent that health services, insurance benefits and services are offered, gynecological problems shall be treated the same as any other physical problems.

86.38 (b) *Athletic interest survey:* The regulations require an annual survey to determine student interest. Institutions are likely to oppose this provision because of the paper work involved and because they may fear that students might be disinterested in some heavily financed competitive sports. *Comments are needed supporting the annual survey.*

Recommendation: (1) The annual survey should be retained in the regulations.

(2) The results of the survey should be made public and published by the institution.

(3) The institution shall show good faith efforts in taking the results of the survey into consideration in developing its athletic programs.

86.38(c) *Athletics and affirmative efforts:* The recipient is required to make affirmative efforts when athletic opportunities have previously been limited. No assessment of past opportunities is required. No examples of "affirmative effort" are given. No remedial action is required.

Recommendation: (1) Institutions should be required to do a self-analysis of athletic programs and opportunities. The study should be disseminated by the institution and shall include (but not be limited to) an analysis of athletic opportunities at all levels of competition; recruitment efforts; equipment; supplies; scheduling of games and practice times; travel and per diem allowances; award of athletic scholarships; op-

portunity to receive coaching and instruction; assignment of coaches and instructors; awarding of letters and other sports honors; provision of locker rooms, practice or competitive facilities; provision of medical and training facilities and services; provision of uniforms; provision of intramural and recreational opportunities; and publicity.

(2) Where discrimination is found, a *written* plan of remedial action should be required and disseminated by the institution.

(3) Where participation by one sex is substantially less than for the other sex, a written plan of affirmative action should be required and disseminated by the institution and revised annually.

(4) Examples of permissable remedial and affirmative action should be given.

(5) The self-study shall be completed no later than 180 days after the effective date of the regulations and be conducted annually thereafter.

86.38(c)(1) *Informing students of equal athletic opportunities:* The regulations require institutions to inform students of equal athletic opportunities. No particular method is suggested or required, nor is there a time period within which this must be done. Parents of elementary and secondary students are not required to be notified. Notification is not required to be written. Notification is required only for the members of the sex for which athletic opportunities have been limited.

Recommendations: (1) Students should be notified *in writing* of the opportunities in athletics.

(2) Notification should be required to be placed in gymnasiums, student papers, catalogs and other publications and on bulletin boards, and should appear *in all written communications concerning athletics and physical education.*

(3) Parents of elementary and secondary students should be notified in writing annually. Provisions should also be made to notify parents of students transferring in the middle of the school year.

(4) Notification to students (including parents of elementary and secondary school students) should be required within 90 days after the effective date of the regulations.

(5) Students of *both* sexes should be notified of the new policies.

86.38(c)(2) *Support and training activities in athletics:* Institutions are required to "provide support and training activities [for members of a sex for which athletic opportunities have been limited] designated to improve and expand their capabilities and interests to participate in such opportunities." No guidance is given to institutions as to the kinds of support and training activities that might be undertaken by institutions. No written plan of support or training is required. (See comment under 86.38(c)).

Recommendation: (1) The regulations should give examples of support and training activities, such as (but not limited to) skills workshops, increased facilities, staff and expenditures, counseling, posters, training for current staff, etc.

(2) Recommendations under 86.38(c) are also appropriate here.

86.38(d) *Equal opportunity in athletics:* The regulations require institutions to make affirmative efforts to "equalize opportunities for members of both sexes, taking into consideration the determination" made by the required survey. Institutions may misread this provision as *limiting them* to tailor their affirmative action program *only* to the results of the survey. Thus if no females desired to play ice hockey, an institution might erroneously decide that *no efforts to increase the desire to participate* are necessary. No guidance is given to the institutions as to what constitutes "equal opportunity." Without any definition, institutions which want to move forward will have no guidance. WEAL sees no reason to not include specific guidance for institutions.

Recommendation: (1) The regulations should read ". . . taking into account, *but not limited to,* the results of the determination . . ." (add italic words).

(2) Equal opportunity should include, but not be limited to, selection of sports and levels of competition; recruitment efforts; provision of equipment and supplies; scheduling of games and practice times; travel and per diem allowance; award of athletic scholarships; opportunity to receive coaching and instruction; awarding of letters and other sports awards; assignment of coaches and instructors; provision of locker room, practice or competitive facilities; provision of medical and training facilities, services and programs; provision of uniforms; provision of intramural and recreational opportunities; publicity or otherwise.

86.38(e) *Equal opportunity and separate teams for each sex:* The regulations mention separate teams for each sex only in the context of not discriminating on the basis of sex in the provision of necessary supplies, equipment or in any other manner. No guidance is given as to when an institution should provide single sex or mixed teams. There is no guidance concerning the participation of women on men's teams when they meet the skill levels required.

Recommendation: (1) A recipient may in any sport at any level of competition operate or sponsor separate teams for each sex for which members of the team are selected on a basis of competitive skill and without discrimination on the basis of sex.

(2) If a recipient operates or sponsors separate team for each sex in any sport at any level of competition, and if there are insufficient members of either sex available to form a viable team for members of that sex, such recipient shall operate or sponsor a single team in that sport at the same level of competition, for which members of each sex are selected on the basis of competitive skill and without discrimination on the basis of sex.

(3) In making the determination about single sex and mixed teams, an institution shall consider such things as the number of athletic opportunities for each sex, the level of opportunities for participation by each sex, the selection of sports available to each sex, and the skill level required for the particular sport.

(4) If a recipient operates or sponsors a single team in any sport at any level of competition for which members are selected on the basis of competitive skill and without discrimination on the basis of sex, and if members of one sex are substantially excluded from that team, the recipient shall provide, instead of a single sex team, separate teams, provided sufficient members of each sex choose to participate therein to form a viable team for members of that sex.

(5) In the event that not enough persons of one sex are interested in a sport to form a viable team, opportunities for participation must be developed for that sex, such as intramural, club and extra-curricular activities; skills workshops; or special instruction, as part of the affirmative program.

(6) In the event that separate teams are operated and opportunities for competition are not equal and beyond the control of the institution (such as an insufficient number of teams at other institutions available for competition), members of the team with limited opportunities must be allowed to play on the team that has better opportunities provided that selection for that team is on the basis of ability and without discrimination on the basis of sex.

86.38 (f) *Equal expenditures in athletics not required for each sex:* The regulations state that *equal aggregate expenditures for athletics* are not required for members of each sex. However, in the introductory section *preceding* the regulations, this section is interpreted as not requiring equal aggregate expenditures for members of each sex or *equal expenditures for each team.* The introductory statement is inconsistent with the actual regulation 86.38(f).

Recommendation: Where separate teams exist in the same sport, expenditures shall be equal on a per capita basis, unless the institution can show that the different expenditure rate is related to non-discriminatory factors, i.e., if a team of one sex has more members on it than that of the other sex because of a different rate of participation. Nothing in this section shall be interpreted to allow differences in equipment, supplies, facilities, recruiting, opportunities for coaching and instruction, scholarships and per diem allowances; nor should the regulation be interpreted as prohibiting equal aggregate expenditures for both sexes.

Subpart E employment, general

The introduction *preceding* the regulations states that an employer who complies with Subpart E would be in compliance with both Title VII and the Executive Order (with the exceptions of pensions), even where the latter provisions differ from each other. We assume that institutions are *not* being excused from the affirmative action requirements of the Executive Order. However, the statement could be misconstrued as implying that compliance with Subpart E *excuses* the recipient from the affirmative action requirements of Executive Order 11246. Moreover, the sections covering pregnancy are *not* in compliance with Title VII.

Recommendation: This section should read, "While nothing in this section conflicts with Title VII or the Executive Order 11246, as amended, compliance with this part is independent of and does not alter obligations imposed by Title VII and the Executive Order.

86.41 *Part-time employment:* The regulations specifically mention and cover permanent part-time employees. Institutions may oppose this, even though there is nothing in the legislation that would allow for an exemption of part-time employees. *Comments are needed to support this provision.*

Recommendation: The regulations should continue to cover permanent part-time employees.

86.41(a)(1) *Part-time employees and fringe benefits:* Because all employees who were permanent are thus far covered, part-time employees would be required to be paid benefits when they are permanent *and* when an institution's female permanent employees are predominantly part-time, or when the part-time permanent employees are disproportionately female. The introductory material preceding the regulations defines "permanent" as "any employee who is expected to work or has in fact worked at least one semester at half-time or half-time equivalent." *The Secretary has specifically requested comments on this.*

Institutions can be expected to oppose this provision because of the additional costs involved. It should be pointed out that there is no basis in law that would justify the use of cost factors in exempting *some* employees. Any exemption of part-time employees from one part of the regulations, i.e., fringe benefits, could set a precedent in allowing further exemptions for part-time and other employees as well. Moreover, institutions currently pay fringe benefits for employees with two or more part-time assignments in the case of joint appointments.

Recommendation: (1) Permanent part-time employees should not be exempt from any part of the regulations, including fringe benefits.

(2) Fringe benefits for permanent part-time employees should be required on a pro-rated basis.

(3) In the event of health and life insur-

ance policies which cannot readily be provided on a proportional basis, employers shall offer to pay a proportional amount if the employee wishes to pay the remaining amount to obtain full coverage.

86.44 *Compensation:* The intent of the regulations apparently is to forbid salary discrimination. 86.44 (b) and (c) are unclear and confusing. WEAL has been unable to determine what this section means.

Recommendation: 86.44 (b) and (c) are unclear and need to be rewritten, following principles evolved in salary discrimination under Title VII and the Equal Pay Act.

86.46 (b) (2) *Equal pensions:* As currently written, the regulations would permit *either* equal contributions *or* equal benefits. Thus, a pension plan such as TIAA—which requires equal contributions for each sex but pays less to women because they ostensibly live longer—would be permissible. This provision is in line with the Equal Pay Act but would put employers in violation of Title VII of the Civil Rights Act of 1964, which requires equal *benefits*, regardless of the amount of contributions made by the employer. Since virtually all employers are covered by Title VII, and only *some* by Title IX, WEAL sees no jurisdiction for weaker regulations under Title IX. *The Secretary has specifically requested comments on this.*

WEAL notes that current actuarial tables are *sex-based classifications*, and as such would be prohibited when employers contract with pension and insurance companies for employee benefit plans. WEAL also notes that minorities have a shorter life expectancy than whites yet do not collect higher pensions based on that fact. Similarly, unequal pension benefits disproportionately affect *minority women*, whose life expectancy is *less* than that of white *males* and white females. In spite of that fact, minority women do not receive a higher pension as do white males because of *their* lower life expectancy.

While equal benefits can be obtained by paying higher contributions for women, this would perpetuate sex-based classifications in employee benefits, and the added costs might fall disproportionately on those employers with a higher number of female employees. A unisex table (similar in concept to the uni-race tables now used) would be fairer, and would avoid the problem of possibly illegal sex-based classifications. WEAL also notes that a unisex table is *not* prohibited by Title VII.

Recommendation: (1) There should be no differences in employee benefits based on sex.

(2) Where actuarial tables are used in computing employee benefits, unisex tables should be required.

86.47 (e) (1) *Pregnancy and notification to employer:* The regulations require that an employee cannot be forced to begin pregnancy leave if her physician certifies that she is able to work. The regulations also state that the pregnant woman notify the employer 120 days prior to the expected birth of a child. This provision treats pregnancy differently from other temporary disabilities and would violate the Sex Discrimination Guidelines of Title VII.

WEAL notes that men are not required to notify employers 120 days before elective hernia or prostate surgery or other elective procedures.

Moreover, such a regulation would be a hardship on women who have not read the regulations. Since Title IX forbids *employers* from discriminating, WEAL does not understand why this regulation is aimed at the *employee*. Institutions could abuse the provision in such an instance because a woman failed to notify them.

Recommendation: The provision requiring notification of delivery date should be dropped.

86.47 (e) (1) and (2) *Pregnancy and physician certification:* The regulations (as mentioned above) state that an employee cannot be forced on maternity leave *if her physician certifies in writing that she is capable of performing her duties*. Similarly, the employer cannot require the leave to be longer than two weeks after the physician certifies in writing her ability to perform the job. (For an exception to this regulation, see next section.)

These provisions also *treat pregnancy differently from other temporary disabilities* and violate the Sex Discrimination Guidelines of Title VII. A physician's certification of ability to work is not required for any other temporary disabilities (such as hernias and prostate surgery) upon return to work.

Recommendation: (1) The provision should be dropped, *or*

(2) Physician certification of ability to return to work shall *not* be required unless it is required for all other leaves caused by temporary disabilities exceeding two weeks.

86.47 (e) (2) *Pregnancy-maternity leave and teachers:* The regulations allow institutions to force a woman who takes a leave for pregnancy or childbirth—no matter how short the leave—to remain on leave *until the beginning of the first full academic term* following her physician's certification that she is able to work.

This provision also *treats pregnancy differently from other temporary disabilities* and violates the Sex Discrimination Guidelines of Title VII. Other disabilities, such as hernias, prostate surgery, broken limbs, etc. may keep persons off the job for several weeks, yet they will be allowed to return without being forced to wait for the beginning of the next academic term. WEAL notes that many elementary and secondary school systems are on a year-long academic "term"; a woman who gave birth in September could be forced to wait until the following year. Moreover, the provision is badly written; a woman who took two days off because of prgnancy could be forced to stay on leave until the next semester began.

Recommendation: The provision allowing institutions to require longer leaves for teachers who take leaves related to pregnancy should be deleted.

86.51 *Sex as a bona fide occupational qualification:* In those instances where sex is essential to the successful operation of the employment function, a recipient may require as a bona fide occupational qualifiaction (bfoq), such as in employment in a toilet facility. The regulation further states that alleged comparative characteristics or stereotypes or preference of employees or students are not justification for a bona fide occupational qualification.

Since bona fide occupational qualifications are highly unlikely to be justified in most employment by educational institutions, and because it can easily be subject to abuse, bfoq's should not be allowed except under very stringent circumstances.

Recommendation: Sex as a bona fide occupational qualification should not be allowed unless requested from and approved by the Director of the Office for Civil Rights.

86.51 *Bona fide occupational qualifications and locker rooms:* The regulations allow sex to be a bfoq in relation to employment in locker rooms. The provision, as written, could be subject to abuse, particularly in terms of employment of physical education and athletic personnel. An employer might use "related locker room duties" to keep certain jobs limited to one sex by adding on locker room supervision as a function of certain jobs.

Recommendation: (1) Locker room duties should be allowed for justification as a bfoq only when that is the main part of the job. i.e., at least half-time.

(2) Bfoq's involving locker rooms should be requested from and approved by the Director of the Office for Civil Rights.

Subpart F—Procedures, General

(1) Letters of funding, compliance reports, records of complaint (provided the privacy rights of individuals are not violated) should be available to members of the public.

(2) WEAL also calls attention to the lack of due process and other rights for parties who file complaints under Title IX.

(3) While WEAL notes that the procedures developed in Subpart F are somewhat more cognizant of complainant's rights than those in Title VI (after which Title IX is patterned), WEAL requests that changes in the Title IX regulations that enlarge the rights of complainants be incorporated into Title VI regulations as well. The procedural requirements of both Acts should be identical.

86.61 (b) *Compliance reports:* Recipients are required to keep "such records" and submit "timely, complete and accurate compliance reports at such times, and in such form and containing such information as the Director may determine to be necessary." This regulation is vague and does not tell institutions what kinds of records they should keep, in what form the records should be kept, and how long records should be kept.

Recommendation: The compliance report should specify what kinds of records should be kept, the form of such records, and how long records concerning admissions, programs, treatment of students and employees, etc. must be kept. The regulations should state that admission data, recruitment materials for all programs, student participation data in in-house programs, and employment data be maintained and kept by the institution for a three year period.

86.61 (c) *Confidential information and disclosure by HEW:* The regulations state that asserted considerations of confidentiality may not operate to bar HEW's access to information. "Information of a confidential nature" obtained in an investigation will not be disclosed by the Department except where necessary in formal enforcement procedures. While WEAL applauds HEW for not allowing assertions of confidentality to limit investigative access to records, we are unsure as to what criteria will be used in withholding "confidential" information from interested parties. Many women's groups have had difficulty in obtaining information from their institutions and from HEW, under the guise of "confidentiality." The term "confidential nature" needs to be spelled out.

Recommendation: (1) Information relating to the privacy of an individual that is obtained in the course of a review will not be disclosed (except where necessary for formal enforcement or as otherwise required by law) unless permission has been given by the individual in writing.

(2) Considerations of "privacy" shall apply only to *individuals* and not to institutional data.

86.62 (b) *Who may file complaints*: Individuals or *representatives* may file a complaint with the Director. It is not clear if civil rights organizations can file on their own as a third party or only as a "representative."

Recommendation: The regulations should read that representatives *and organizations* may file complaints. (add italic)

86.62 (b) *Notification of complaints:* The complainant must be notified "promptly that the complaint has been received, but there is *no* requirement that the recipient or applicant for federal funds be notified. Since months or *years* may elapse before an investigation is begun, institutions will be deprived of the opportunity to try to resolve discrimination problems *prior* to a compliance review because they will not necessarily know that a complaint has even been filed against them. This also violates due process considerations.

Recommendations: (1) Complainants should be notified *within 30 days* that the complaint has been received by HEW.

(2) The recipient or applicant for federal funds should be notified within 30 days that a complaint has been filed.

(3) Notification to the recipient or applicant for federal funds should include the nature of the complaint, i.e., discrimination against employees or students, and the area of discrimination involved such as athletics, admissions, etc., insofar as the disclosure of the complaint does not invade the privacy of complainants.

(4) Where the complainant is an individual rather than a representative or organization, the name of the complainant shall not be revealed at the time of notification unless the individual consents in writing.

86.62 (c) *Investigations and contact with complainants:* There is no requirement that HEW contact the complainant for further information until *after* the investigation. If the recipient of applicant for federal funds is found to be in compliance, then—and only then—is the complaining party given an opportunity to submit additional information. Thus, *investigations can be conducted without any input whatsoever from the complaining party.* Sincere months and years often elapse before an investigation occurs, and because the filing of a complaint may generate additional information that the complainant has, the complaining party should be contacted during the investigation. Additionally, because of HEW's improprieties in the past, many women are fearful of putting all the necessary information in the formal complaint and prefer to give this additional information during an investigation in order to prevent harassment.

Recommendation: Complainants should be contacted as part of the investigative process, and given the opportunity to provide additional information orally or in writing.

86.62 (d) *Notification of investigations and results:* Complaining parties are notified only *after* the investigation is finished. If a finding of noncompliance is made, the complainant is notified, but there is no requirement that the details of the letter of finding of noncompliance be given to the complainant. Complainants are *not* notified when an investigation is being conducted, nor are students and employees notified. Such lack of notification that an investigation is being planned or carried out may deprive HEW of useful information needed for fair and complete investigations.

Recommendations: (1) Complainants should be notified *in writing* of the disposition of complaints.

(2) When a finding of noncompliance is made, a copy of the letter of finding shall be sent to the complainant.

(3) The letter of finding shall be available to interested parties under the Freedom of Information Act.

(4) At the time HEW notifies the institution that a compliance review is scheduled, the institution will be required to notify its students and employees that a review has been scheduled. Such notification should be placed in the school newspaper, employee newsletters, and posters placed in prominent places. Such notification should state how employees or students wishing to contact HEW can do so.

(5) A copy of the letter of notification of a scheduled compliance review should be sent to the complainant.

86.62 (d) *investigations and letters of findings:* There is no time limit on how soon a letter of finding must be sent after an investigation. Under HEW's enforcement of Executive Order 11246, the time between investigations and a letter of finding has often been a matter of years; indeed some investigations have *never* been followed by a letter of finding either clearing the recipient, or finding it in noncompliance. WEAL is concerned that a similar violation of the intent of Title IX may occur. WEAL notes that there are time frames given for the formal hearing procedures and does not understand why there is *no time limit* given for the earlier investigative procedures.

Recommendation: (1) Letters of findings must be sent to institutions no later than 3 months after investigation.

(2) All investigations should be completed within 90 days. In the event the investigation is not completed, the Office for Civil Rights (OCR) shall notify the Secretary and the complaining parties as to the reasons for the delay, and to request from the Secretary an additional 30 days investigatory period.

86.63 *Noncompliance and delay in awarding financial aid:* The regulations state that noncompliance *may* be a cause for suspension or termination or refusal to award or continue Federal financial assistance. No mention is made of *delays* in awarding aid which typically occur when noncompliance is found and a negotiating period ensues. This negotiating period under HEW's enforcement of Executive Order 11246 has often dragged on for several *years* (3 or more years in many instances). Without any restrictions on a negotiating period, WEAL is fearful that negotiations under Title IX will also continue for a period of years, even though this would violate the intent of title IX.

Recommendation: Institutions not in compliance *6 months after a letter of finding* of noncompliance has been issued shall *automatically* be subject to suspension, termination or refusal to award or continue Federal financial assistance in accordance with the procedures listed in the regulations. (86.63).

86.63 (a) *Opportunity for hearings:* Only the applicant or recipient can request hearing when HEW makes a determination. Should complaining parties disagree with HEW's findings, there is *no process whatsoever* whereby they can obtain a formal hearing to appeal the decision. This violates due process of individuals. Furthermore, there is nothing in title IX that would prohibit the establishment of formal appeal procedures for complaining parties which would parallel those available to recipients and applicants.

Recommendation: Complainants should be able to request a formal hearing when they disagree with HEW's findings.

86.64 (b) *Time and place of hearing*: Hearings are held in Washington unless the administrative law judge determines that the convenience of the applicant or recipient and of the Director requires another place to be selected. Should complainants wish to participate as *amicus curiae*, their "convenience" should also be considered in setting the place of a hearing.

Recommendation: The regulation should state in setting a place, the administrative law shall take into account "the convenience of the applicant, recipient, *and complainant*, should the latter wish to testify. (add underlining)

86.64 (c) *Participation by complainants as amicus curiae*: The regulations allow individuals and organizations which have filed a complaint to petition the administrative law judge for permission to participate as an *amicus curiae* at the formal hearings. Although notification of the hearing notice is sent by certified mail to the complainant, there is *no* requirement that the complainant be advised of his or her right to participate as *amicus curiae*. Because individuals who have filed complaints often lack adequate resources, they should have the right to ask civil rights groups to represent them. Additionally, interested civil rights groups should be able to participate as *amicus curiae* even if they were not a party ot the complaint. In those instances where there is no complaint, civil rights groups should be requested to participate so that the rights of students and employees are represented at the hearings. Complainants should be requested to testify at the hearings.

Recommendations: (1) Complainants should be notified in writing of their right to participate as *amicus curiae* at the time that the notice of the hearing is mailed to them.

(2) Individual complainants shall have the right to ask civil rights groups to represent them even if the organization was not a party to the original complaint.

(3) Civil rights groups shall have the right to request participation as *amicus curiae* in all cases, even if they were not a party to the original complaint.

(4) Complainants should be requested to testify at hearings.

86.64 (d) *Right to counsel*: The recipient has the right to be represented by counsel in all proceedings. No mention is made of the recipient's right to counsel.

Recommendation: *Complainant* and recipient shall have the right to be represented by counsel in all proceedings.

86.64 (a) (1) *Travel paid for witnesses*: Persons who ars asked to testify as a witness for the government's behalf may be reimbursed for travel to the formal hearing. Complainants who participate as *amicus curiae* are likely to have far more limited resources available for travel and expenses than representatives of recipients. Unless travel and expenses are paid, many complainant's will be unable to participate.

Recommendation: In addition to witnesses, travel and actual expenses should be paid for persons who participate as *amicus curiae*.

86.65 (b) *Reviews by reviewing authority:* Should the recipient or applicant for Federal funds disagree with the findings of the administrative law judge, the regulations allow them to file additional materials and request the reviewing authority (appointed by the Secretary) for an exception to the initial decision, thus providing an appeals procedure for recipients and applicants. *No appeal procedure exists for complainants,* nor is the complainant given an opportunity to submit additional materials to the reviewing authority. This violates the due process rights of complaining parties.

Recommendations: (1) Complainants and other interested parties, including those who participated as *amicus curiae* shall be notified when a recipient or applicant for Federal funds requests an exception with the reviewing authority and given an opportunity to submit materials in the same manner.

(2) Complainants and other parties who participated in the administrative hearing shall have the right to file an appeal with the reviewing authority.

86.65 (e) *Review by the secretary:* The recipient or applicant for Federal funds, or the Department may request the Secretary to review the decisions made by the administrative law judge, by the reviewing authority or in those instances where a right to a hearing has been waived. *The complainant has no appeal right whatsoever.*

Recommendation: Complainants and other parties who have participated in the earlier levels of review shall have the right to request the Secretary to review decisions made at a lower level.

THE 10TH ANNUAL SUGAR FESTIVAL IN SEBEWAING, MICH.

HON. BOB TRAXLER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 18, 1974

Mr. TRAXLER. Mr. Speaker, this past weekend I had the pleasure of participating in the parade and festivities of

the 10th annual Sugar Festival in Sebewaing, Mich. This salute to one of Michigan's most important products and this celebration of an American community's heritage is one in which I wish all Americans could have shared.

The history of Sebewaing, like that of many other cities in America's heartland, is rich and colorful, a tale of settlers guided by a dream, of hard-working farmers hacking out and painstakingly cultivating their fields, and of Lutheran missionaries spreading the gospel.

It was in the summer of 1851 that a group of 45 people, seeking to better their economic situation in life, set out with their meager belongings from Detroit to join Lutheran missionary Rev. John Auch in the wilderness of northern Michigan. There Auch and two other missionaries were bringing the Christian religion to the Chippewa Indians, who used the Sebewaing area for hunting and the sparkling blue waters of Saginaw Bay for their fishing grounds.

Traveling on a small wood-burning steamboat from Detroit the settlers were forced by shoal water to land on Lone Tree Island in the Saginaw Bay about 2 miles offshore from what is now Sebewaing. Nok-chee-ko-may, chief of the band of Chippewas, had previously assured Reverend Auch that the settlers would be brought ashore by canoes on their arrival, but at the last minute he changed his mind, perhaps fearful of the white settlers. Against the rain of pleas and arguments of the young missionary, the chief remained adamant. Finally, when the settlers had been marooned on the island for over 3 weeks, and supplies were exhausted, Nok-chee-ko-may took pity on the settlers and relented. As the group disembarked on the mainland, the old chief himself headed the little band of welcomers.

The picture of the way these hearty German settlers entered the Sebewaing area is dramatic; what followed, however, was the day-to-day hard work of building farms, churches, and homesteads. By their persistent efforts, the people who settled this region nurtured the first of a long line of farms that has earned the area the reputation of being one of the richest agricultural areas in Michigan.

Today Sebawaing is the very center of a region highly productive in sugarbeet growing, the crop this festival commemorates. Sugar is at the heart of the city's economy as well as its agriculture. Sebewaing's oldest and largest industry, sugar is both a multimillion dollar farm crop as well as a source of employment for hundreds of men and women. The Michigan Sugar Co. has been operating a plant there since 1901 and today produces more than 6 million pounds of refined white beet sugar annually.

Sebewaing is also in the heart of the Upper Thumb's great navy bean producing area, which grows about one-sixth of the world's navy bean crop. Many farms in the area also raise dairy cattle. The Michigan Producers Dairy Co. is a major processor of powdered milk and sweet cream butter.

Rail and ship transportation spurred the economic growth and enhanced the diversity of the town's business sector. The Saginaw, Tuscola, and Huron Railroad Co., later consolidated into the Chesapeake and Ohio Railroad system, built their first track to Sebewaing in 1880. Dredging of the river channel in 1866 cleared the way for nearly 30 boats to make Sebewaing a regular port of call on trading journeys between Bay City, Saginaw, Tawas, Au Sable, Oscoda, Alpena, and other Lake Huron, Lake Superior, and Lake Erie ports. Seventeen of these ships were built and owned in Sebewaing, most of them skippered by the owners themselves.

Today, in addition to its sugar and dairy industries, the village boasts several metal working firms—notably the Sebewaing Tool and Engineering Co., the Sebewaing Industries, and Acme Roll Forming Co.

Throughout the years, which have seen the rise and demise of many enterprises, the Sebewaing Blade has been a voice inspiring businessmen and other citizens to ever greater economic, civic, and cultural achievements. Mr. Speaker, I would like to offer special thanks to the Sebewaing Blade for providing much of the background material for my salute to Sebewaing.

Today Sebewaing, Mich., is a pleasant community of 5,000 people. Though a small midwestern town by some standards, Sebewaing has seen continued progress and growth. Educational and religious facilities have been enlarged. The economy has continued to grow. The citizens of the city have demonstrated a determination to meet the challenges of a changing world.

This year's 3-day Sugar Festival drew attention to this determination as well as to the rich agricultural base of the region. The festival included a carnival, parade, stage show, horseshoe and tractor pulling contests, fireworks, a craft fair, and the crowning of the festival queen, "The Sweetest Girl in the World."

On behalf of the city of Sebewaing and the sugar growers and producers in the thumb of Michigan, I extend an invitation to my colleagues and to all those who might be traveling in the State of Michigan, to visit this unique paradise of pleasant farms, hearty food, and agreeable people.

WINDY CITY YIELDS TO WAVE OF NOSTALGIA

HON. MORGAN F. MURPHY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 18, 1974

Mr. MURPHY of Illinois. Mr. Speaker, nostalgia is fast becoming a big business in these United States. Movie and stage producers, advertising executives and fashion designers are all reaping the financial benefits. The emphasis is on capturing the mood of earlier times. It matters little that may people participating in the mood were not even born during the earlier times.

I believe that much good can result from reliving moments of the past. It can only serve to give us a fresh perspective on the present. We deemphasize the hard times which were very much part of the thirties, forties, and fifties and concentrate on the "good news."

I do not agree that nostalgia is an escape into the past from a more painful present. It may be an attempt to return to times when lifestyles were less complicated, when neighbors were lifelong friends, when the neighborhood was a way of life rather than just a place to live.

I was pleased to read an article in the July 17 Christian Science Monitor about the wave of nostalgia that has hit my city of Chicago. The return of the pleasure boats to Lake Michigan, the reappearance of double-decker buses, and the restoration of the Navy pier remind me of days which I thought had long since passed.

The kids of today who never experienced a city block party do not know what they have missed. There was a pride in one's community and a genuine concern for the guy down the street.

I am including Judith Frutig's article in the RECORD for the benefit of my colleagues who may want to reminisce:

WINDY CITY YIELDS TO WAVE OF NOSTALGIA

Nostalgia is breaking out all over Chicago this summer. . . .

On a clear, sun-bleached morning recently, a gleaming liner appeared over the horizon on its approach to port. The ship glided through the breakwater and slid into the docks under the watchful escort of a red fireboat, paving the way with cascades of dyed pink water.

The port was Chicago, the dock the downtown Navy Pier. The cruise ship was the Sun Line's 3,500-ton, 182-passenger Stella Maris II, a cozy, compact Great Lakes cruiser, on an inland lake cruise for the first time this decade and bound for points Midwest. Cruising had finally returned to the Great Lakes.

Cruising isn't the only old-fashioned pleasure returning to the Windy City this summer.

Out of the past comes a resurgence of double-decker buses and mounted police. Even the Navy Pier is being restored as a recreation center.

ESCAPE FROM SCANDAL?

Some here say Chicago's quest for the simple pleasures is an escape from the Watergate scandals now spreading into Midwest politics.

Jack Reilly, Chicago's director of special events, say "Chicago is a world's fair. We want to have fun. Why, we're just an overgrown country town."

Whatever the reason, Chicago is experiencing:

The cruisers. After a lapse of nearly a decade Chicago once again is a cruise-ship port. Pleasure ships have been around Chicago and the Great Lakes for a long while. Even ore-carrying freighters would sometimes carry passengers on their laborious passage from coal port to company furnace.

At one time no fewer than 16 separate steamship lines operated day and overnight expeditions through the Midwest lake country. But the return of the Greek-operated Stella Maris is the first of a regular series on the lakes since 1966 when the Georgian Bay Lines shut down service, a temporary victim of the jet age.

MODEST SCALE

Double-decker buses. The Chicago Transit Authority has purchased seven two-story buses from a West German firm. Except for

promotional gimmicks, these rambling coaches have been gone since the passing of the Chicago motor coach fleet in the early 1950's.

The new crop won't be quite the same as the old motor coaches, for the new models won't let the sun shine in on open-air upper decks. Still, they promise to let riders peer down on everything but the buildings.

Mounted police. The return of the mounted patrol is on a decidedly modest scale. Intended for warm weather crowd control in parks and on the lakefront, 10 new horses have been named by school children. They are Gettum, Gotcha, Pax (Latin for peace), Linco (a bleach), Nebo (a Biblical mount), Amigo, Ki, Obsidian, Mason, and Greco.

MAJOR ATTRACTION

Navy Pier. The renaissance of the Navy Pier will bring back a major attraction to the Lake Michigan shoreline. The pier is an old-time magnet for thousands of Chicagoans who romanced on its stately docks, rode its ferris wheels, and danced in its lakefront ballroom. The city is restoring the crumbling half-mile strip for walking, fishing, bicycling, and picknicking.

If that is not enough to bring back the days of the "Great Gatsby"—playing in local theaters—there are other signs of the past popping up in a resurgence of the outdoor beer gardens and return of the block party. Department of Streets and Sanitation commissioner James McDonough reports requests for neighborhood festivals are up to 60 a month.

Add to that antique-style bubble globes for street lighting, and the return of big-time ballroom dancing and stage shows.

For now, the bubble globes are mostly confined to the Old Town area and the black bottom hasn't yet taken over the bandstand, but a number of Chicago theaters are reportedly investigating.

IN SUPPORT OF TWO BILLS TO AMEND THE MILITARY SURVIVOR BENEFIT PLAN

HON. JOEL T. BROYHILL

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 18, 1974

Mr. BROYHILL of Virginia. Mr. Speaker, I am cosponsoring two bills today which, in my consideration, are of considerable importance to our retired military community and equally important to those military personnel preparing for their retirement in the near future and who must make significant decisions affecting their annuities.

The main thrust of the first piece of legislation is to amend the survivor benefit plan in order to make any surviving spouse eligible for an annuity thereunder if married to the retiree at least 1 year before the retiree's death. The second bill also amends the survivor benefit plan to prohibit reduction in retired or retainer pay in cases where the beneficiary predeceases the retiree.

Mr. Speaker, the military survivor benefit plan is modeled along the same lines as the surviving spouse civil service retirement plan. As our experience factor builds on these plans, a number of injustices have been uncovered which, in order to eliminate them, it is now required that an adjustment be made to existing law. Congress recognized that the civil service retirement law required adjustment with enactment of Public Law 93–260 to permit the widow or widower of an annuitant who dies in service or marries after retirement to receive annuities if she or he was married to the annuitant for at least 1 year. The first of the two pieces of legislation I have cosponsored today parallels this change to the civil service retirement law and which I strongly urge my colleagues to favorably consider at the earliest date.

A comparable situation is demonstrated in the second of these two pieces of legislation. By way of explanation, let me point out that when the military retiree elects to opt for a survivor benefit at the time of his retirement, this decision is irrevocable. It is irrevocable in the sense that not only can the retiree not change his decision, but if he is predeceased by his spouse, his reduction in annuity continues in effect. Liberalization of this same aspect of the Civil Service retirement plan is included in S. 628, which is now in conference committee. Here again, Congress has recognized an injustice in this plan and is in the process of adjustment through legislation. I feel it appropriate and timely therefore to make a similar adjustment to the military survivor benefit plan. In this regard, the bill I have cosponsored today would allow the restoration of full retired pay to a military retiree participating in the survivor benefit plan should he be predeceased by his spouse. In addition, full retired pay would commence 1 month after the month in which his spouse's death occurred, and would continue until the retiree, by virtue of remarriage, again opts to participate in the Survivor Benefit plan.

Mr. Speaker, our Nation's military retirees look to Congress for adjustment of injustices in the survivor benefit plan, and it is my hope that my colleagues will favorably consider both these bills in the immediate future.

WINNING ESSAY ON THE "SPIRIT OF '76" IN ILLINOIS

HON. SAMUEL H. YOUNG

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 18, 1974

Mr. YOUNG of Illinois. Mr. Speaker, recently, I called the attention of the House to the need for greater participation in the 200th anniversary of the signing of the Declaration of Independence of the United States.

In connection with my efforts to obtain greater citizen awareness of this event, I have sponsored an essay contest for high school students on the "Spirit of '76."

I would like my colleagues to read one of the two winning essays written by Karen Huelsman, 2757 Royal Drive, Northbrook, Ill., a junior at Regina Dominican High School. I am sure my colleagues will find it reassuring that we have such intelligent and thoughtful views so well expressed by the youth of this country.

THE SPIRIT OF '76

"The Save the Grove Committee won another round in its continuing fight to prevent development of one of the last pieces of virgin prairie in the state."[1] This statement shows that people are realizing the importance of preserving our land and natural resources.

Our growth and overgrowth is slowly suffocating the nation. Is it just the fault of present day industry, life-styles or government? Or have we been wasteful since our birth as a nation? The causes of our grave situation are many. But we have the knowledge and hopefully the courage to change it.

Actually it all started during the 18th century when the free market and laissez-faire economy began in America. Adam Smith, author of *Wealth of Nations*, 1776, felt that society could function best if individuals invested their wealth, talents, and energies where they were in greatest demand.

"Smith's ideas make some sense in "cowboy economies"* where available resources and opportunities can be considered infinite, where there are no organized oligopolies or monopolies, and where purchasing power is fairly widely distributed."[2]

But today there are five times as many people as lived in Smith's world, and consequently there are very few resource-abundant societies left.[3] A cowboy economy is not going to last. Massive growth in all areas of industry has caused severe shortages in many of our natural resources. Land developers gobble up untouched regions. Mineral rights are exploited by entrepreneurs. Forests are owned by lumber interests.

Growth must also be questioned. Our economic model calls for continuous growth. Our high standard of living has been a result of such economic growth. A steady state economic system causes increased unemployment as population increases. Given a choice, most people would choose continuous growth and a rise in the Gross National Product.

But can we continue to double the production of goods and services in the next 17 years? Such growth curves are not unknown in biological and physical systems. When cells keep multiplying in animal tissues, we call them cancer cells. Their growth is not indefinite. "Indeed, they eventually kill the host organism."[4]

Also, a rise in Gross National Product does not always represent a rise in the standard of living. The increased production of cars has raised the GNP, but lowered the quality of life because of the pollution they cause.

Americans must face facts squarely. They must understand that the American economic model—one that values increasing growth, waste (nonrecycling of essential materials) and competition—is inherently unstable.[5] However, there are methods by which we can reduce growth and thereby alleviate many of our present problems.

A "steady state" (or "stationary state") economy should be considered. Aside from maintaining the integrity of the Earth's ecosystems, the pressing problem for the human race is to treat Earth's finite supply of resources with greater respect.[6] This is not to be confused with no growth. In reality, there can be plenty of growth in the sense of increased well being.[7] For example, urban areas can be renovated, eliminating the need for expansion into untouched lands.

Awareness of ecological problems has also grown considerably. A public service television spot has just been completed and will be seen in more than 75 countries beginning June 5, World Environment Day. The film presents several situations where fathers are telling children what they did as young boys. In the last one a French grandfather stands before a fuzzily focused landscape. "When I was a boy," he reminisces, "I loved to take long walks in this field with my grand-

Footnotes at end of article.

father." the background comes into focus. It is a field littered with auto bodies and junk.

"If we aren't careful with our environment, what kind of stories will our children be able to tell?" the narrator asks.[8] This is a healthy sign that Americans are concerned about the future.

In addition to continued awareness of our problems, there are ways in which we might modify economic and environmental behavior. It may take decades to persuade people to alter their habits, because the most efficient way of changing norms and values is to develop new attitudes among the young. If a program of education were begun now, there is no reason why a new ecological consciousness could not be a significant factor by the year 2000.[9]

There are but a few of the possible solutions for our environmental problems. Through the combined efforts of our human resources we can strive to preserve our natural resources thereby creating a better tomorrow.

FOOTNOTES

[1] Joanne Kantor, "The Grove wins round in fight to save prarie," *Northbrook Life*, April 25, 1974. A cowboy economy is one in which the abundance of resources and opportunities is so great that little coordination or regulation are necessary for optimal allocation of resources.

[2] Dennis C. Pirages and Paul R. Ehrlich, *Ark II Social Response to Environmental Imperatives* p. 66.

[3] *Ibid.* p. 66.

[4] "Continuous growth or no growth? What the ecologists can teach the economists," *The New York Times Magazine*.

[5] *Ibid.* p. 39.

[6] Pirages and Ehrlich, p. 109.

[7] *Ibid.* p. 110.

[8] Betsy Bliss, "Around the world for three minutes of film," *Chicago Daily News*, May 11, 1974.

[9] Pirages and Ehrlich p. 95.

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EDISON ELECTRIC INSTITUTE RESPONDS

HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 18, 1974

Mr. HARRINGTON. Mr. Speaker, on June 25, I inserted in the RECORD an article by Edward Cowan of the New York Times on the "business as usual" attitude of the Nation's electric utilities.

On July 5, I received from W. Donham Crawford, president of the Edison Electric Institute, a copy of a letter he had written to the New York Times in response to the Cowan article, together with the outline of a speech presented by Mr. Crawford on the utility industry's financing problems.

In my opinion, both the letter and the speech reinforce Mr. Cowan's central point—that despite the severe hardships skyrocketing electric rates are having on the average man, the utility industry is focusing almost exclusively on its own internal problems, and is refusing to consider the larger picture, or, as Mr. Crawford puts it, "social problems."

Reprinted below are Mr. Crawford's letter to the Times and speech outline from which my fellow Members may draw their own conclusions:

EDISON ELECTRIC INSTITUTE,
New York, N.Y., June 27, 1974.

The EDITOR,
The New York Times
New York, N.Y.

DEAR SIR: Mr. Cowan's article on electricity rates in the Sunday, June 23rd, New York Times deals extensively with my recent remarks before the National Press Club in Washington. For the sake of clarity, I would like to provide further explanation regarding the reasons why large users of electricity customarily receive a lower rate per kilowatt-hour than smaller users do.

A fundamental principle of rate regulation and electric service pricing is that charges should be reasonably cost-related. This helps to avoid discrimination among customers so that each bears the fairest possible share of the costs of providing service.

If we consider two industrial customers, each with the same kilowatt load requirement, but with differing kilowatt-hour usage, the operation of this principle can be readily seen. Customer A, with a 10,000 kilowatt demand, has a one-shift operation and consumes about 2¼ million kilowatt-hours a month. Customer B, with the same 10,000 kilowatt requirement, has a three-shift operation and uses about 6¾ million kilowatt-hours a month. Although the kilowatt demand component of the two manufacturers is the same, Customer B pays a lower price per kilowatt-hour, because the fixed charges represented by the demand requirement are spread over three times the kilowatt-hours of electricity use. His total bill, of course, is much larger than that of Customer A.

An electric utility, by the nature of its business, must provide electricity instantly on demand through a highly sophisticated system of electric generators, switchyards, transmission and distribution lines and other equipment representing a large capital investment. This means that a major component of cost relates to fixed charges which must be distributed on an equitable basis among all the utility's customers.

This is admittedly an oversimplification of a highly complex subject. It should serve, however, to illustrate that if General Motors, for example, pays less per kilowatt-hour for electricity than one of its employees, it is only because it costs less per kilowatt-hour to serve General Motors than to serve the employee.

Mr. Cowan implies that utilities and regulatory authorities are somehow remiss in not including social objectives in the setting of electricity rates. The use of energy pricing to reallocate income among consumer groups would involve the selection of those who should be discriminated against and those who should be benefited. A number of adverse effects could ensue—misallocation of resources, distortions of energy conservation practices and unfavorable economic impacts in various parts of the nation, for example.

The nationwide use of energy is not a justification for utilizing its pricing mechanism as a convenient method for resolving social issues. Clearly, social problems and their proposed solutions should be dealt with, not as by-products of electricity rate proceedings, but in the broad arena of the American political process where they can be identified, debated and decided upon the basis of their merits.

Sincerely yours,
W. DONHAM CRAWFORD,
President.

THOUGHTS ON FINANCING THE INDUSTRY'S FUTURE

(Speech for North Central Electric Association's Executive Conference, Alexandria, Minn., June 19, 1974, by W. Donham Crawford)

I. CLEAR THAT THE INDUSTRY IS HAVING FINANCIAL PROBLEMS

A. Disarray of securities markets.

1. Common stock. Stock prices below book value in many cases. No electric utilities selling at more than ten times earnings. Reduction of new offerings due to low prices.

2. Bonds. Reduced ratings. Reduction of interest coverage. High yields.

B. Trend in interest coverage—Chart No. 1.

C. Trend in current ratios—Chart No. 2.

D. Advice by Standard & Poor's for large investors to sell some utility stocks due to the general poor health of the electric utility industry.

E. Recent speech by Andrew F. Brimmer, a member of the Federal Reserve Board, appraising the financial condition of the nation's utilities. He stated that:

1. He is convinced the public utilities are confronted with genuine financial difficulties.

2. Despite the severity of these financial problems, the regulatory process has not been accelerated.

II. REASONS FOR FINANCING DIFFICULTIES

A. Regulatory lag—a chronic condition which characterizes the interval between a utility's incurring increased costs and the time when offsetting rate relief is effective.

B. The need for additional power facilities to meet the public's requirements for more electric energy—Chart No. 3.

C. Current high cost of new plant and equipment.

D. Cost of environmental improvements.

E. High cost of environmentally acceptable fuels.

F. Cost of capital at historically high levels.

G. Reduction of sales and revenues resulting from energy conservation programs.

III. PERSPECTIVE

A. Low prices for common stocks not unique to electric utilities. Many other industries are undoubtedly dismayed at the lack of strength in their securities. Problems of electric utilities are susceptible of solution.

Pattern of industry's need for new capital.

An average of 10% of nation's personal savings over recent years with variations between 5% and 16%.

Expectation that this average will rise to 15% or possibly even higher in the future.

Not out of line considering greater energy role which electricity is expected to play.

IV. ACTIONS NEEDED

A. Of overriding importance is the need for expeditious and adequate response from regulatory commissions to requests for increased rates. This is the *key* to the financial health of the industry, with rate of return on equity and the prompt recovery of costs being the principal considerations. Despite the concern he expressed about the industry's financial situation, Mr. Brimmer stated that he is convinced that a more sympathetic and timely response of regulators to requests for rate adjustments will enable the vast majority of firms to cope with their problems. He does not expect that financial difficulties will lead to a parade of utilities

to their state legislatures to seek emergency assistance.

Government entities at all levels having either a responsibility or an interest in utility matters could take the following steps:

1. Issue policy statements recognizing that prompt and effective rate relief will be necessary for many utilities during 1974.

2. Provide positive support for the enactment of uniform state laws authorizing the use of projections, temporary rates, "filing" statutes with limited suspension periods, and automatic adjustments clauses and surcharges.

3. Participate in utility rate proceedings in support of prompt and effective rate relief.

4. A corollary action that should be taken by governmental organizations at all levels is to pay their own utility bills promptly. Often, agencies of government are among the slowest bill payers, thus adding to the utility's financial problems.

B. To deal with the lag in recovering fuel costs through adjustment clauses, the presently used time period of approximately two months should be shortened.

C. More effective procedures for granting approvals for the construction of needed utility facilities are urgently needed at all levels of government. Prolonged hearings and extensive delays add greatly to the cost of utility facilities.

D. Use of less expensive fuels, particularly coal, must be permitted when this can be done without impairing health-related environmental standards.

E. Prompt consideration is needed to increase the 4 percent investment tax credit available to utilities to 7 percent, the level available to companies in all other industries, and to remove the 50% limitation. This is logical, and would be a step in the direction of alleviating capital problems.

F. The Tax Reform Act of 1969 provided for a change in Section 312 of the Internal Revenue Code which had the effect of phasing out by calendar year 1973 tax exemption on that portion of dividends representing a "return of capital to the common stockholder." Restoration of the former provision would permit some utilities engaged in large construction programs to offer to stockholders dividends with a sizable income tax free component, thus improving the market for utility common stocks.

If this provision were restored, it would also be helpful if some leveling mechanism were established which would allow companies to stabilize, from one year to the next, the percentage of their dividends which would be tax free.

G. The Tax Reform Act of 1969 also provided for a 60-month amortization of pollution control facilities (Section 169 of the Internal Revenue Code). However, the fast write-off provision is not applicable for such facilities placed in service after the end of 1974. This termination should be extended for five years.

H. Section 103 of the Code provides for the issuance of tax exempt obligations to finance air and pollution control facilities. A broad interpretation by IRS as to what constitutes such facilities would be helpful to those utilities which have elected to finance pollution control expenditures in this way.

V. OUTLOOK FOR IMPROVEMENTS

A. Rate increases.

While the pattern of regulatory response is not uniform across the country, it appears in general that commissions have a keener appreciation of the needs of electric utilities for rate increases and automatic adjustment clauses. However, there is still a great need for improvement.

The record of the first quarter of 1974 is indicative of better response. Forty rate increases were granted during this period totaling just over $526 million. This compares with the first quarter of 1973, when 27 increases were granted, totaling about $146 million. For the entire year of 1973, increases of about $1 billion were granted.

B. Procedural changes for improved response.

1. Rate regulation. Little progress being made. EEI intends to propose to NARUC the establishment of a uniform state law that would take advantage of the best features of the regulatory laws of the individual states.

2. Facilities approval.

a. AEC actions designed to reduce lead time for a nuclear plant from ten to six years.

b. Doub study. Carried out for the President to determine the best way to organize all energy related regulatory activities of the government.

i. Submitted this Spring.

ii. Several recommendations designed to streamline and improve regulatory procedures.

iii. Uncertain what the future holds for these proposals. Do not detect any momentum for their adoption by government.

c. Use of less expensive fuels.

1. Recommendation to Congress to modify Clean Air Act to permit burning coal.

2. Meetings with EPA on use of coal, tall stacks and alternate control systems.

3. Recent letters from EPC to EPA which, in essence, support the industry's position.

D. Tax considerations.

Communications with Administration and with Congress on points outlined.

VI. COMMENTS ON SUGGESTED REMEDIES FOR UTILITIES' FINANCING PROBLEMS

A. Government guarantees and government loans. My belief is that such measures will not be necessary. The proper way to assure that utilities are financially healthy and thus able to provide the service demanded by the public is to have adequate rates established by regulatory bodies. This has been the system that has worked so well in our country, providing us with the best utility service in the world. What is needed now is a renewed determination by regulation to carry out its assigned role effectively and expeditiously. If this is done and proper rate relief is forthcoming, there will be no need for government loans and guarantees.

B. State take-over of generation and transmission.

1. Strongly opposed to this concept.

a. No basis for view that government can do a better job than industry. The U.S. has the largest, most advanced electric power system in the world, provided in preponderant part by investor-owned electric utility companies.

2. Operation of a power system by the government does not reduce the cost of providing electric service. Some of the costs are simply transferred from the ratepayer to the taxpayer.

3. If generation and transmission were to be taken over by government, the distribution function could be expected to soon follow and the entire industry would be nationalized. There is no basis for such a development or for any belief that the public desires it.

VII. CONCLUSION

The financial problems faced by our industry are not insoluble. We know what the solutions are and we must do everything we possibly can to assure that needed actions are taken promptly. This means an effective program of communications with government at all levels and with the public as a whole.

There is no question that the nation will have a growing need for electric service. It must be and will be provided. Our industry has a truly remarkable record of providing this service to the nation over many years and there is every reason to believe that this will continue in the future. The industry recognizes its obligation to the American public to provide for its rapidly growing electrical energy needs and to do so under sound business principles at the lowest practicable cost consistent with the continuing need for reliable service and acceptable environmental conditions. The public and government at all levels must assure that the industry is permitted to function under conditions that will make it possible to accomplish these goals.

SURFACE MINING CONTROL AND RECLAMATION ACT OF 1974

HON. BOB TRAXLER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 18, 1974

Mr. TRAXLER. Mr. Speaker, the House is considering a bill this week which will have important and long-reaching effects on the welfare of our Nation. I refer to H.R. 11500, the Surface Mining Control and Reclamation Act of 1974.

The gas crisis this country endured last winter taught us that we cannot afford to remain dependent on foreign sources of energy. We must turn to sources within our borders if we want to remain free from energy blackmail.

By far the cheapest, most abundant, and most practical source of energy found in the United States is coal. Indeed, the proven reserves of the United States are estimated to be 43 percent of all the coal in the world—more than the combined reserves of the next two ranking countries, Russia and China. As this country moves to lessen its dependence on foreign sources of energy by expanding development of native natural resources, coal will assume an ever greater share of the energy market.

However, in developing our own energy resources, we cannot abandon our land to unchecked exploitation. The challenge we face is to unlock the vast stores of coal beneath our land while minimizing damage to the environment.

As this country turns to coal for more and more of its energy needs, the need for control of mining practices will assume great importance. While in the long run the deep mine method of mining coal must dominate, since the vast majority of coal reserves can only be mined this way, the strip mine method will be most attractive to coal companies in the immediate future, because of the cheaper mining costs involved.

While strip mining may cost less than deep mining, though, the cost to our land could be great if strip mining practices remain largely unchecked. Even now, 1,000 acres are strip mined every week in the United States, and it has been estimated that strip mining is costing Americans $35 million a year in lost recreational resources and an undetermined amount in lost land left scarred and desolate. Some States have attempted to check this environmental damage by regulating strip mining practices, but their efforts have suffered from lack of uniformity and enforcement.

Beginning in April of 1973, the House Interior and Insular Affairs Committee recognized the pressing need for regulation of strip mining practices by holding extensive hearings on surface mining legislation. The committee intended to draft a bill which in its view best regulated strip mining practices while insuring this country of an adequate supply of coal. The committee's product, H.R. 11500, is the result of many months of hearings, research, and compromise.

It is fitting that compromise characterized the writing of a bill designed to reconcile two often conflicting needs, the need for regulation of strip mining practices and the need for a viable strip mining industry. The bill properly follows the narrow path between the views of Members of Congress who propose more stringent strip mining controls and the views of Members whose proposals would amount to no controls at all.

The provisions of H.R. 11500 are designed to minimize the environmental impact of further strip mining and to create a fund for the reclamation of abandoned strip mined lands. Environmental impact will be minimized by miners' adherence to several important performance standards. Mined lands must be restored to their approximate original contour; land must be restored to a capability of supporting the uses it supported before it was mined; disturbances to the natural water systems of mined lands must be minimized; and a self-sustaining vegetative cover must be established. Funds for reclamation of lands already damaged by strip mining will be generated through a small tax on all coal mined in the United States. Enforcement of these provisions will be a State matter under Federal supervision.

Thus, the bill will place the responsibility for reclaiming strip mined lands where it belongs: on the coal companies doing the mining. Contrary to industry pronouncements, the standards and provisions of H.R. 11500 are feasible ones, and ones that will not cause either a drastic drop in coal supplies or an exorbitant increase in costs to the consumer.

It is up to all of us, industry and consumers alike, to face up to the fact that while our Nation has abundant energy reserves which can provide a real alternative to foreign oil imports, we cannot afford to devastate our country in exchange for cheap energy. The price of the regulation and reclamation standards in H.R. 11500 is small, and future generations of Americans will look upon it as having been a wise bargain.

I will support H.R. 11500. It is a strong yet sane response to the need for reasonable environmental safeguards in the face of burgeoning demands on our coal resources.

ISABEL BURGESS HELPS SAVE LIVES

HON. JOHN B. CONLAN

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 18, 1974

Mr. CONLAN. Mr. Speaker, we often fail to give proper credit to the many dedicated Washington reporters for local newspapers, radio, and television stations, who keep citizens in our own communities so well informed of what is happening every day in Congress and the Federal Government.

These journalists and broadcasters do more than report national news. They add a vital local perspective to their stories, directly relating events in the Nation's capital to the everyday lives and well-being of citizens in our 50 States.

Reporters for our local news media also have a personal attachment to those communities and their readers and listeners, and are thus the heart of their profession in Washington.

Arizona has several outstanding such journalists here. Ben Cole and Lou Hiner, bureau chiefs respectively for the Arizona Republic and the Phoenix Gazette, our State's two largest daily newspapers, have reported news of the Congress and the Federal Government from Washington for more than 25 years. They are a great credit to their publisher, Eugene Pulliam, who, I know, greatly values their dedication and professionalism.

A recent story by Ben Cole about Arizona's distinguished Isabel Burgess, former State senator from Phoenix and currently a member of the National Transportation Safety Board, is very representative of the fine stories these men file to Phoenix.

Mrs. Burgess is an outstanding lady in government who has done so much to improve safety and protect lives, and the story most adequately related her achievements and great service to our Nation.

The story is as much a tribute to its writer as it is to Mrs. Burgess and the fine work she is doing. I would like to include the story in the RECORD so that all my colleagues in Government can pause to reflect on how important a part of our constitutional form of government are these Washington-based representatives of the local media.

[From The Arizona Republic, May 26, 1974]

FORMER STATE SENATOR SPENDS HER TIME SAVING LIVES

(By Ben Cole)

WASHINGTON.—Every day Mrs. Isabel Burgess of Arizona gives her full attention to saving your life.

The job of this former Arizona state senator and longtime highway safety crusader is the envy of women everywhere. She is one of the five members of the National Transportation Safety Board with duties that take her everywhere in the world to find the causes of tragedy.

The NTSF consists of five members. Besides Mrs. Burgess there are the chairman, John H. Reed, a former governor of Maine who has served since 1967 and has been chairman since 1969; Louis M. Thayer, a former Coast Guard admiral; William R. Haley, a former legislative counsel to former Sen. John Sherman Cooper, R-Ky.

"Each one of us is an individual with our own separate points of view and methods of approach to problems," Mrs. Burgess says. She has served since January, 1969, and her appointment will be up for renewal at the end of the year.

Sometimes she finds herself the board member whose unsatisfied curiosity results in additional material that helps prevent future accidents. It is prevention of the accidents that might never happen that concerns her most.

The investigation in which Mrs. Burgess takes perhaps the most pride in her role involved the after cargo doors on DC–10 airliners. The first incident happened near Detroit, involving an American Airlines plane. First reports led investigators to suspect a terrorist bomb. Then the after cargo door was found 9 miles from the crash scene. Passengers, still strapped in their seats, were also found 9 miles back, indicating the plane decompressed explosively when the after door fell off.

Mrs. Burgess flew to Detroit for what was the first investigation of an accident involving the new wide-body jets. She crawled around in the after storage compartment, inspecting damage to the control cables where the explosive decompression had forced the passenger compartment floor downward.

"It was horrifying," she recalls.

Out of that investigation came an order from the Federal Aviation Administration making fundamental changes in the DC–10 cargo doors. The problem appeared solved.

"But unfortunately a couple of planes got through the production lines without the modification," Mrs. Burgess recalls. "It was a tragic thing."

An accident in her home state of Arizona last year when she was serving as the NTSB's acting chairman produced a story Mrs. Burgess loves to recount.

It happened May 24, 1973. Henry H. Wakeland, of the NTSB bureau of surface transportation safety, phoned to report an explosion on the Southern Pacific line near Benson, Ariz.

Wakeland said he had learned from Tom Dew. Styles, of the railroad safety division, that exploding ammunition was involved. It was a hairy report and Mrs. Burgess acted immediately.

She glanced up at a calendar on her office wall. It was a nostalgic gift from Hank Fenn, proprietor of Hank's Cafe in Benson. Reading the number from the calendar, she dialed the cafe and Hank Fenn answered on the first ring.

"What's going on out there?" Mrs. Burgess asked.

"A boxcar blew up on the railroad," Hank told her. Then he said, "Della Mae Comstock saw the whole thing and she's sitting right here having a cup of coffee."

Hank handed the phone to Mrs. Comstock, postmistress of Dragon, Ariz., who told how she had been driving along the access road beside the railroad when she spied a flaming boxcar. Every now and then she stopped and put out a fire from one of the flying pieces of burning wood. Then she got back in her car and sped after the train.

Outside Benson, the boxcar exploded with a low-sounding, "Huff!" Then it exploded again, this time with a bang.

"She was the best witness we could have asked for," Mrs. Burgess enthuses.

When the NTSB's investigator, Bill Meeker, got to Benson, he had Mrs. Comstock drive with him back over her route along the rails. They collected all the charred pieces of the car which the postmistress had seen fly from the burning train.

Meeker brought the splinters back to Washington where a xylologist from the Forest Service identified each piece as to kind of wood. The splinters were then separated into piles—some from the boxcar walls, some from the floor, some from the pallet upon which the cargo of bombs had been loaded.

Dick Spence, vice president of the Southern Pacific, even made use of Mrs. Comstock's evidence when he launched his own investigation.

The NTSB also tracked down one carload of bombs which had somehow got left out of the train that stopped at Benson. The car was on a siding at El Paso, Tex., and it afforded the investigators opportunity to

study the bombs and the boxcar, determining the cause of the Benson explosion.

It takes a long while for the NTSB to make its careful study of an accident; and though the Benson incident is a year old, now, the NTSB's report is only now ready for final approval.

In the mean time, Investigator Meeker has become a devoted Arizona buff, even visiting Mrs. Comstock and her family, exploring the Cochise country, and even tracing the old Butterfield stage route.

The very first accident Mrs. Burgess investigated was a bus wreck somewhere in Indiana.

"Everybody missed the plane but me," she recalls with unconcealed satisfaction.

She arrived in Indiana wearing a blue-and-white dress from Goldwater's. She hired a car and drove herself to the site of the accident.

"I saw a car there with an official-looking seal on the side, so I got out and knocked on the window. The driver was a highway patrolman, and he said he was getting ready to go to the hospital and interview the bus driver. I said I'd go along. By the time the rest of them go there, I had all the information assembled," she remembers.

Ready for any emergency, the NTSB keeps a "Go Team" standing by to go any place in the world where a transportation disaster must be investigated.

Mrs. Burgess's first month as the board member slated for "Go Team" duty started on a Thursday evening in 1970—just before Thanksgiving.

The NTSB duty officer phoned to say there had been an air crash on an icy runway. "It's bad," he reported. "Brakes frozen, the plane ran off the end of the runway into a ditch. There was a fire. Forty dead, 180 escaped."

Then he added, "It was an MAC (military air charter) operation—servicemen's families."

"Where did it happen?" Mrs. Burgess asked.

"Anchorage, Alaska," came the reply.

She recalls, "I was packed for anyplace else but Alaska."

But she went, flying by way of New York City and carrying a package of goodies for an FAA acquaintance in Anchorage.

A quintet of young men with brief cases was seated near her. Western like, she struck up a conversation. Were they going to Juneau? No, they said, Anchorage.

"I wonder if you're going for the same reason I am," she asked them solemnly.

"Are you a next of kin?" one of them asked.

"No," she said, identifying herself. The five young men, it turned out, were an FBI identification team going to help at the crash scene.

Mrs. Burgess calls off a short litany of crashes that still disturb her because of one avoidable element: "Pango-Pango, Midway, O'Hare—that was a runway collision—all of them were survivable except for the fire."

The FAA, she notes, has announced an investigation to find fire protection systems which will cut the toll from fuel fires in crashes. (It should be noted that airlines, for all the talk of crashes necessary in Mrs. Burgess' career, still have the most enviable safety records of all—fewer than a single death per 100 million passenger miles in 1973).

Does it distress her to go over and over details of accidents which cost lives? Or does it sustain her to hope her work will save lives long in the future?

"Both," she confesses. Sometimes the grimness of accidents does bear down on her, but she characterizes her duties with the NTSB as "a challenge."

As a professional viewer of accidents, Mrs. Burgess says, "I never go to the scene of an accident just for the sake of seeing a wreck."

She says, "I never stop when I drive past the scene of an accident unless I can be of help—unless I can take a constructive part. Otherwise it's best to stay away."

An item in the list of things Mrs. Burgess wishes people would do is the ELB, or emergency locator beacon. The relatively inexpensive little device beeps when a plane goes down, sending out a radio beacon that can be tracked to the crash.

The late Rep. Hale Boggs, D-La., majority leader of the U.S. House of Representatives, was lost on a crash in 1972. "The pilot was asked just before take off if he had all his equipment, and he answered yes," Mrs. Burgess relates. "After his plane disappeared, they found all four of his ELB's in his office in Fairbanks."

The wreckage has never been found. "They never should have taken off in that weather," Mrs. Burgess declares.

She shudders as she reflects on the repetition of causes of light plane crashes—most of them because of weather. Over and over again unskilled pilots take off in instrument weather without the instruments they need or the knowledge how to use them. The NTSB doesn't investigate these numerous crashes, which are now handled by the FAA.

Memories of accidents she had helped investigate bring a sadness to Mrs. Burgess' face.

"So many of them are so heart-touching," she comments.

The crash of a Delta DC-9 at Boston last year was one she remembers particularly with distress. The airplane fell short of a runway in a deep fog. Air controllers in the tower, despite the ring of a malfunctioning alarm bell, failed to think the plane was down. They thought it landed safely.

"No accident is the result of a single thing," Mrs. Burgess said. "There are always a group of things that happen at once and cause tragedy."

At the Boston scene, Mrs. Burgess recalls, the litter of broken airplane parts was mixed with an astonishing number of shoes. "You have no idea how many shoes," she remembers. "And children's books—and toys."

Investigating fatal crashes never inures one to tragedy, Mrs. Burgess has learned.

Any crash or highway accident is heartbreaking.

She remembers with poignancy the crash of a plane carrying a University of Wichita football team.

"The pilot was young and qualified, the co-pilot was old and tired. Neither of them knew anything about box canyons, and they flew up a canyon so one of the boys could show his friends where he had worked during the summer.

The plane crashed into the canyon wall. There were only a few survivors.

Last January, Mrs. Burgess visited Russia as a member of a Department of Transportation delegation to discuss transportation safety.

The occasion was the signing of a protocol in which the United States and the Soviet Union agreed to work in specific areas together—such as aviation.

The Soviets, Mrs. Burgess said, want to import American knowhow in air traffic control. She was delighted to find the Russian air traffic control system is headed by a woman.

Mrs. Burgess said that during her Russian trip she found interest in creating an arrangement with the Soviets whereby American investigators will be able to participate in any crash involving an American plane on Soviet territory.

Pan American World Airways, she noted, already has a bilateral agreement of this kind with the U.S.S.R.

An NTSB project which Mrs. Burgess finds fascinating is the development of a data system which will computerize accident information for instant retrieval. It will be possible to recall immediately all the accidents which fit into a single category or which have marked similarities.

Within the next three weeks, Mrs. Burgess will attend a meeting of international aviation authorities in Montreal, to discuss making all such computer banks compatible.

Even the Russians are playing ball, "Until lately," she says, "they were reluctant to discuss any of their air accidents."

Germany has got into the game to the extent of sending to the U.S. aircraft made in that country, urging a uniformity in the numerical designation of parts.

The NTSB investigates all accidents on railroads, highways, commercial airlines, and on water.

Marine disasters, however, are dealt with differently from the others. In the case of accidents afloat, the Coast Guard conducts the inquiry. Mrs. Burgess sat with the Coast Guard's board of inquiry last spring on the Verazzano Narrows ship collision in New York Harbor.

The S.S. Brussels and the S.S. Seawitch collided, spewing burning fuel oil over the water.

A witness told how a few * * * the fantail of the ship, seeking to fight the blaze on their own vessel. Unexpectedly, they felt a draft of cooler air at their backs. They looked and saw the sea of flame had divided and there was open water. A fire tug was able to get to their ship and take them off.

"The harbor pilot told the story," Mrs. Burgess recalls. "Not a person in the room stirred as he recited the incident."

The NTSB operates its own school to train accident investigators. Mrs. Burgess notes with satisfaction that the class just graduated contained two Frenchmen, a Lebanese, a student from Panama and another from Iceland.

"All of them will be the better equipped to serve their own countrymen, and it will mean the best of cooperation if ever they are called on for cooperation with our people," Mrs. Burgess said.

She feels the 254 persons who make up the NTSB staff are too few for the work required. All of them, she finds, are dedicated to their jobs.

Her five years in Washington have been short Mrs. Burgess has discovered. She is expecting reappointment next week and is eager to continue her work. It is, she says, both challenging and fascinating.

She acknowledges that life here is far different from Arizona. For one thing, people are less neighborly. Friendships aren't established as quickly, nor are people so companionable as they are in the West. Friends seldom "drop in."

Mrs. Burgess has an apartment in the famous Watergate, a short taxi-ride from her office.

She has a brightly sunlit office on the eighth floor of the Federal Office Building at 800 Independence Avenue, S.W.

Her window overlooks the Smithsonian Institution's sprawling complex. The Washington Monument and the Capitol are within view, and the controversial Hirschhorn sculpture museum and garden is just across the street.

Mrs. Burgess works in a quietly studious atmosphere. Her assistant, John Noggle, works in an adjoining room, his papers arranged as neatly as those on his boss' desk.

PRODUCTIVITY AND THE GOVERNMENT

HON. EARL F. LANDGREBE

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 18, 1974

Mr. LANDGREBE. Mr. Speaker, an article which recently appeared in In-

dustry Week entitled "Let's Get Our Government on Our Side" deserves the attention of all the Members of Congress. The only suggestion that the article makes that is not worthwhile is the creation of another Government bureau for the purpose of challenging the actions of other departments of the Government. What is needed is not another agency, but a reduction in the number and size of agencies now operating. Reducing the size of the Government will simultaneously increase the productivity of our economy, as the obstacles which thwart economic progress are removed. I insert the following article in an abridged form at this point:

[From Industry Week, July 8, 1974]

LET'S GET OUR GOVERNMENT ON OUR SIDE

(By Floyd G. Lawrence)

"If Government actions constraining U.S. productivity growth arose from malice or dereliction of responsibility, then at least it would show someone had thought about the matter.

"But nobody *has* thought about it. So the private sector faces a situation far worse than irresponsibility and that is *nonresponsibility*.

"Among the 2.5 million civilian employees within the federal government there is no department nor person with any responsibility for evaluating or even monitoring the effect of federal actions upon the ability of the U.S. private sector to create wealth—let alone upon productivity improvement or a climate to facilitate the creation of wealth.

"Most emphatically we do not need central planning, but neither do we need central chaos. What we do need is economic analysis and responsible awareness that government actions severely impact our climate for economic growth and our competitiveness in world markets.

"It is ironic that much of the harmful economic impact stems from measures responsive to 'concern for the public interest.'

"The economic message must get through to government that *when we jeopardize our productivity of industries we are severely jeopardizing the public interest*. And, based on that awareness, we should then seek to bring about an entity in government with the *power to challenge the actions of government on the basis of productivity impact* just as actions are now challenged within government on the basis of environmental impact.

"This new entity would represent the economic public interest and in effect be charged with protecting the economic environment for productivity growth."

The conclusion capsulizes an objective management consultant's 19-month examination of Washington. John M. Stewart, 42, is once again a management consultant to technology-based companies and a director of McKinsey & Co., New York. But from July 1972 until February of this year, Mr. Stewart was executive director of the National Commission on Productivity.

It was during that time that we met Mr. Stewart and at his invitation participated with him in several programs on the competitiveness of U.S. industry. We had the opportunity to share his growing realization that "things aren't merely as bad in government as I had suspected—they're worse."

A Harvard M.B.A., with McKinsey & Co. since 1961, Mr. Stewart had approached the productivity assignment as a management challenge. In examining the opportunity for productivity improvement within the economy as a whole, Mr. Stewart and his associates identified four basic areas: productivity within government itself; the productivity impact of government action upon the regulated industries; productivity through inter-industry cooperation; and productivity within individual industries and companies in the private sector.

THE WORST FIRST

"It was within the various private industries that many expected us to make our major effort," recalls Mr. Stewart. "Industry people would call and ask, 'What are you going to do for us?'

"But when we compared their productivity situation with the first three—government, government's effect on industries, and inter-industry cooperation—it was clear that industries were far more aware and motivated and aggressive in moving ahead on productivity.

"By way of contrast, so far as we could determine, for example, less than 1% of the political jurisdictions in the country have an organized productivity program of any sort. Yet we're adding to federal, state, and local government employment every year at the rate of an entire steel industry. Obviously there is more concern with productivity in the steel industry than with those added employees or with the 12.5 million persons who now make up about 18% of the U.S. workforce.

"That's why we believe there is a major effort needed to examine and improve productivity in government at all levels. There is little drive, little awareness, and little effort directed at improving it.

"And that's true in government from top to bottom. At the federal level, for example, top policymakers come in for an average of only 22 months. One cabinet member told me flatly, 'I'm not at all interested in whether my department is more or is less productive. I must have three projects while I'm here that are newsworthy, of interest to the Congress, and quick. Improving the productivity of this department just doesn't fit into that.'

"Now this is not all to the bad. If an agency is doing something counterproductive and you increase its productivity, then it is just that much more counterproductive. And this can happen.

"Last fall we had a severe shortage of railroad hopper cars to haul grain. In the midst of that shortage, the Interstate Commerce Commission (ICC) passed a ruling that no more than 20% of the grain could be hauled by extra large hopper cars in unitrains—the most efficient method.

"Now nearly anyone who does not understand how government works might question why the ICC restricted the most efficient grain hauling method at the very time the need for it was most acute. But to the ICC, it was an action clearly required under its mandate from Congress to protect the small shippers who are not on the unitrain lines.

"Obviously the small shippers might have been protected in other ways. For example, we asked the ICC if an economic analysis had been done to find out if it might be more efficient for these small shippers to truck grain to unitrain lines.

"The answer was that they had not done any such analysis because that is not part of their mandate. The ICC has been charged by Congress with protecting the small shippers and *not with making sure that transportation costs are as low as possible or that productivity is high*.

SPOILED LETTUCE

"Or take the matter of railroading and food. Fresh lettuce from California to New York used to take only six days by rail in 1950. By 1970 the trip took up to 12 days and was very unreliable.

"During this time the spoilage in those refrigerated cars has gone up, and so have the rates—by 50%. And that means that consumers are paying the price for bad quality and bad service.

"Last fall more than 200,000 crates of melons were plowed into the ground for lack of refrigerator cars. Yet the number of refrigerator cars has dropped from 98,000 to 19,000 because the ICC rate is based on a return on investment of 3% per annum. That means the railroads would be better off putting their money into a savings and loan. And certainly it does not encourage their putting it into refrigerator cars.

"Worse still, even the refrigerator cars we have are not used efficiently. The ICC rate structure encourages the Penn Central to hang on to refrigerator cars for 51 days. Now at 40 miles an hour you can drive from California to New York and back again in about six days. But refrigerator cars have been averaging 31 and 32 days turnaround from coast to coast.

"There is no incentive for good service. It doesn't make any difference whether a railroad provides good or bad service, the rate is the same. And this creates enormous inequities.

"For if the Southern Pacific or the Union Pacific buys more refrigerator cars to improve service, the Penn Central has no incentive to return the new cars either. So the new cars simply add to the congestion in the East.

"So if the ICC simply creates incentives to move refrigerator cars back West faster it will substantially increase refrigerator car capacity. We calculated that even a 10% reduction in turnaround time would save $16 million worth of capital investment—money that the railroads would not have to spend.

"The ICC simply is not mandated to devise an efficient or profitable railroad system. Nor are the many other regulatory agencies doing similar things. There is no one within these agencies themselves or within government responsible for examining, analyzing, or costing out the economic effect of these activities on the industries being regulated nor upon the productivity and the efficiency of the economy as a whole.

LEGISLATIVE HAZARD

"Now if you look at what a Presidential commission on productivity can do, you might conclude as we did that illuminating this situation of government lack of productivity and counterproductivity is a top priority. We can never know how much it costs, but it's billions every year, and no one is looking at it.

"So that's why we looked at it and considered what could be done. The obvious first suggestion is to change the mandate through the same legislative process that created it. But if you study it and think about it, you have to conclude that there will be many who do not wish to see an agency like the ICC changed. So there will be some favoring change and many against it, and the upshot is likely to be worse than what we have already.

"But if we could require economic accountability of all these agencies in the way they handle their mandates, then perhaps we might be able to redirect the activities. For, while the structure is rigid, most of the people in these agencies are competent and flexible and in most cases would need only the authority to act in a more economically oriented way.

"That's the reason that I favor an entity in government to challenge government action on an economic impact basis and to be a voice for industry and for the public to insist that regulations be not only legally defensible but economically defensible as well.

"Much as I abhor creating another agency of any kind in government, there is no alternative I can see if we are to avoid the 'Regulation to oblivion' [IW, July 10, 1972] you have pointed out.

"But if this new agency were to look at what government is doing that is harmful to productivity and economic growth on the

one hand, it also could look at what is helpful to them in meeting foreign competition on the other.

"If we don't analyze what the actions of our own government are doing to the strength of our industries, by the same token we certainly are not monitoring the effect of actions by foreign governments on our private sector.

"Nor is any department or person assessing the effect of R&D practice in this country—expenditures, progress, patterns—and contrasting that bellwether activity with the programs of foreign nations.

"I doubt if there are two people full-time among all the federal employees who worry about the economic health of our machine tool industry. At most, within the Commerce Dept. you may find two or three people on such major industries as steel and electronics.

"But in most cases these people have never worked in the industry. Even if they come to understand the industry and its problems and needs, these people are at least five to seven levels below the secretary in the department.

"Surely there can be no more frustrating job in the world than trying to influence U.S. economic policy from seven levels down in the Commerce Dept.

"Clearly, I think we need to redefine the Commerce Dept. to give better industry representation and understanding in government. But that will not be easy, because it must involve advocacy on an industry-by-industry basis.

"Peter G. Peterson as Secretary of Commerce tried to set up a bureau of competitive assessment to determine what kind of disadvantage U.S. industry faced as it tried to market around the world. Yet even he was cautioned not to do it on an industry-by-industry basis for fear of 'favoritism.' Yet to be meaningful at all it must be done industry by industry.

"The Commerce Dept., conceivably, could take the lead in what I have been describing—in monitoring the effect of various factors relating to economic growth including the actions of our own government.

"But there is a lack of purpose and sustained leadership to support this kind of effort. People get a signal and sprint off in one direction, only to be called back for the next sprint in another direction.

PRODUCTIVITY CLIMATE

"There's no question also that high rates of capital investment lead to high rates of productivity. But at the present time that option is stymied by the political stand of labor that the capital allowance credits are simply a tax loophole.

"That fundamental labor position must be changed, but won't be until we are able to deal more effectively with the adjustment of the 3% of the people who lose their jobs every year as a result of productivity gains—and in part through a more widespread understanding on the part of both labor and the public that higher productivity benefits everyone.

"But by the same token, ours is a society of ever higher expectations. And the only way higher expectations can be met is through productivity going up. Just how much we can stand is a moot point by the way.

"We looked at what a 6% annual productivity increase would do to the country, and it appears we could not absorb that. Unemployment would be rife, and the tax system would have to be changed radically.

"There's a great deal more we have yet to learn about productivity—how to define it and how to measure it more precisely. For example, is a doctor more productive when he puts people into the hospital or when he keeps them out? Or, in the case of the Defense Dept., is it more productive when it keeps us out of war, gets us into wars, or gets us out of wars?

INDUSTRY QUESTIONS

"But the same thing goes for tangible products. You can count the number of units produced in an auto plant, but how do you adjust those numbers for the usefulness of a small car, say, versus a large car? And even though we have a number of economists working on output measures that factor in both labor and capital inputs, there are very few that are as yet really useful.

"But even after you have the measure there is some question what you should do with it. We asked a half-dozen people in major corporations which have had productivity measures for a number of years, what they did with the measures. And the answer uniformly was, 'not very much.'

"That is not necessarily a negative. We've got to be careful about what productivity measures can really be used for. Certainly in a business with moderate product change it can be an ideal tool, to look at progress over a period of years to determine if the company is using its resources better. But it's not the kind of measure you use quarter to quarter. It's simply too gross, too broad.

"I agree that we don't do enough productivity measurement in our companies and in our industries. But, among available measures, there are many of more immediate usefulness. Productivity is an excellent measure for long-term policymaking. It is not useful in short-term operating decisions.

"However, if you plan for profit—for return on investment—about 80% of the time you also are planning for productivity improvement. About 20% of the time the objectives of increasing profit or increasing productivity do conflict, so about that percentage of our investment decisions are made on a profit basis to the detriment of productivity.

CLIMATE PARAMOUNT

"It is important that we continue to research productivity—how you define it and how you measure it—but there are about 2 million businesses in this country, and no agency or commission can deal with each of them. So you have to deal with the question of climate. And quite clearly we need some changes in that climate.

"In that regard, I think the government has to change in a major way with regard to the private sector of the economy, for we are not doing a good job of assessing how we stand internationally nor are we doing a good job of understanding the implications of continuing policies and mandates that we now have.

"The Commere Dept. could and should play the role of gathering data on the competitive strength of the U.S.—industry by industry—in the world. We must have a better understanding of where we stand and where we are going.

"But beyond that, we must create the kind of entity in government that will challenge the economic impact of regulations now constraining U.S. economic growth.

"Somehow, if we are to remain competitive, we must get our government on our side."

THE CONSUMER PRODUCT SAFETY COMMISSION: BIG MOTHER IS WATCHING YOU

HON. EARL F. LANDGREBE

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 18, 1974

Mr. LANDGREBE. Mr. Speaker, Members of the 93d Congress have shown an extraordinary concern with privacy—perhaps more concern than has appeared in any other recent Congress. To cite one statistics, approximately 130 bills have been introduced in this Congress which would purportedly insure or enhance the right to privacy. Privacy has received a great deal of vocal support from Members of both parties. It is fast becoming an issue like civil rights or ecology that "everybody" supports. Yet I cannot help but wonder what "privacy" means to some people. I offer but one example: on April 3 this House passed H.R. 13163, the Consumer Protection Act of 1974. That bill would create the Consumer Protection Agency, which in addition to having power to conduct its own conferences, surveys, and investigations, would be able to gather from other Federal agencies and non-Federal sources and disseminate to the public, information, statistics, and other data which it deems would be useful to consumers. What the CPA is, then, is a Central Intelligence Agency for the consumerists. It is difficult to understand how one can be for both "privacy" and the CPA. Apparently only persons who have committed crimes ought to be granted the right of privacy"; all others, especially businessmen, are subject to the continual snooping of Government agencies.

Two years ago Congress enacted the Social Security amendments of 1972, a large bill that contained the now infamous provision for Professional Standards Review Organizations. That provision has rightly been singled out as one of the greatest of governmental threats to privacy. Unfortunately the powers of the Consumer Product Safety Commission in medical affairs has not received the publicity which it deserves. This has not at all been due to reticence on the part of members of the CPSC. They have been far from reluctant to talk about their medical surveillance system, inappropriately called NEISS—pronounced nice. NEISS is the acronym for the National Electronic Injury Surveillance System, a surveillance apparatus of which the Consumer Product Safety Commission is quite proud. An information sheet distributed by the CPSC begins with the following paragraphs:

> If you injured your hand on a lawnmower while cutting the grass one afternoon and just happened to hurry to one of 119 selected hospital emergency rooms nationwide, the Consumer Product Safety Commission in Washington, D.C., would know about it the next morning.
>
> The Consumer Product Safety Commission's Bureau of Epidemiology would know about your injury, the product involved, the body part affected, the treatment you received, and whether you were able to go home or were hospitalized for further care.

The information thus collected is fed into a computer data bank here in Washington. Then:

> Each day, a number of injury cases are selected for in-depth investigations by the Commission's field staff . . . A field officer will visit the particular hospital, receive the name and address of the patient, and proceed to find out how and why the injury occurred . . . Approximately 2500 investigations will be completed during FY 74.

Perhaps you are thinking: this is not so bad; so what if, 24 hours after the fact the Federal Government may know that in my desperate search for tranquillity while reading a stack of OSHA

regulations I cut my hand on a broken bottle of tranquilizers?

Is that really important? I am inclined to reply: perhaps not, in and of itself. But it establishes a precedent; it institutionalizes Big Mother. On June 11, 1973, nearly 1 year ago, Mr. Richard Simpson, Chairman of the Consumer Product Safety Commission, remarked in a speech:

As I said, the NEISS system only tells us which products are associated with injuries reported through hospital emergency rooms. Not reported through NEISS are the many injuries treated in doctors' offices and clinics. And, the most severe cases are fatalities which often go directly to county morgues. We are in the process of expanding our data collection activities to include physicians offices and death certificate reporting.

The remark was repeated on July 17, 1973, and several other occasions. At the present time the information gathering activities of the Consumer Product Safety Commission have been expanded to include investigations of product-related deaths in almost all 50 States of the Union, and plans are well underway to collect information from physicians' offices, from those physicians who can be persuaded to give the required data to the Consumer Product Safety Commission. In establishing its surveillance system of doctors' offices, the Commission or its contractor will attempt to persuade the AMA and the AOE and State and local medical societies to cooperate in its date collecting activities. When the surveillance of physicians' offices and the death certificate surveillance system become fully operational, the Consumer Product Safety Commission will have ready access to all product-related deaths, and a statistically valid sample for injuries treated in the hospital emergency rooms and physicians' offices. All of these data will be subject to in-depth investigation by the Commission if it believes that further investigation is necessary for its purposes.

Of course, should you suffer an injury and go to one of the physicians or hospitals participating in the CPSC surveillance system, the information collected about you and your injury will also be available to the Consumer Protection Agency, assuming that the Senate passes the bill creating that agency.

The collection of this information by the Consumer Product Safety Commission is, of course, a gross violation of privacy. I beg to differ from those of my colleagues who believe that privacy is violated only when information gathered by the Government is disseminated for general consumption. Privacy is violated in the collection of data by the Government, not simply in its dissemination to the populace. Once the Government is party to the data in question, the data are no longer private. I believe that passing laws restricting the distribution of information among agencies of the Government will ultimately no more insure privacy than ministers preaching against the sin of gossip will succeed in ending the activities of the backfence gossips.

Thus if one is in favor of privacy, one must oppose the collection of information by the Government. I am inclined to believe that much of the vocal support for privacy is hollow: Anyone who favors privacy cannot favor increasing the powers of the Government to collect information about its citizens, no matter how innocuous that information may at first apear. To believe otherwise is to be in favor of Big Mother.

SENATE—*Monday, July 22, 1974*

The Senate met at 10 a.m. and was called to order by Hon. JENNINGS RANDOLPH, a Senator from the State of West Virginia.

PRAYER

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

Eternal Father, as we undertake the tasks of another week, our needs are many, but our greatest need is of Thee. Come now to our waiting hearts and go with us in every endeavor. In the responsibilities of statecraft make us truly Thy ministers guided by Thy spirit, trustworthy in motivation and obedient to Thy law.

O God, we pray Thee to work with those who now work for peace. Make all diplomats agents of Thy reconciliation and make every statesman an instrument for bringing peace to warring forces on the Isle of Cypress and in the sea over which the gospel was first carried.

We pray in the name of the Prince of Peace. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The second assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., July 22, 1974.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. JENNINGS RANDOLPH, a Senator from the State of West Virginia, to perform the duties of the Chair during my absence.

JAMES O. EASTLAND,
President pro tempore.

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

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. The majority leader, the Senator from Montana, is recognized.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Thursday, July 18, 1974, be dispensed with.

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

ORDER DISPENSING WITH CALL OF LEGISLATIVE CALENDAR UNDER RULE VIII

Mr. MANSFIELD. Mr. President, I ask unanimous consent to waive the call of the calendar for unobjected-to measures under Senate rule VIII.

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

COMMITTEE MEETINGS DURING SENATE SESSION

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

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

CONSIDERATION OF CERTAIN ITEMS ON THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate turn to the consideration of Calendar No. 978 and Calendar No. 979.

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

The clerk will state the first bill by title.

AUTHORIZATION FOR APPROPRIATIONS FOR THE BOARD FOR INTERNATIONAL BROADCASTING ACT, 1975

The bill (S. 3190) to authorize appropriations for fiscal year 1975 for carrying out the Board for International Broadcasting Act of 1973 was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 8(a) of the Board for International Broadcasting Act of 1973 (87 Stat. 460) is amended by (a) striking out from the first sentence "$50,209,000 for fiscal year 1974" and inserting in lieu thereof "$49,840,000 for fiscal year 1975" and (b) striking out from the second sentence "fiscal year 1974" and inserting in lieu thereof "fiscal year 1975".

CLARA BARTON HOUSE NATIONAL HISTORIC SITE

The Senate proceeded to consider the bill (S. 3700) to provide for the establishment of the Clara Barton House National Historic Site in the State of Maryland, and for other purposes which had been reported from the Committee on Interior and Insular Affairs with amendments: