SENATE—*Tuesday, July 30, 1974*

The Senate met at 10 a.m. and was called to order by Hon. JAMES B. ALLEN, a Senator from the State of Alabama.

PRAYER

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

O God, our Ruler and Lord, send us to our tasks this day surrounded by loving kindness and tender mercies, working in Thy strength and not our own. Grant to us clear heads, clean hands, and pure hearts. May the power of this body be used to guard the truth, to strengthen justice and to bring healing to the wounds of the Nation. Match our wisdom and grace to the high requirements of this moment of history with its awesome obligations and grave decisions. Make and keep us strong in the spirit and so in harmony with Thy will that the work in this place may be a blessing to the Nation and further Thy coming kingdom.

We pray in the Redeemer's name. 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 legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., July 30, 1974.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. JAMES B. ALLEN, a Senator from the State of Alabama, to perform the duties of the Chair during my absence.

JAMES O. EASTLAND,
President pro tempore.

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

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Monday, July 29, 1974, be dispensed with.

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

COMMITTEE MEETINGS DURING SENATE SESSION

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

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

EXECUTIVE SESSION

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

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

The ACTING PRESIDENT pro tempore. The nomination will be stated.

FEDERAL ENERGY ADMINISTRATION

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

The ACTING 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 the nomination.

The ACTING 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.

CONSIDERATION OF CERTAIN ITEMS ON THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Nos. 989 and 990.

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

AFRICAN DEVELOPMENT FUND

The bill (S. 2354) to provide for the participation of the United States in the African Development Fund, was considered, ordered to be engrossed for a third reading, read the third time and passed, as follows:

S. 2354

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

SECTION 1. This Act may be cited as the "African Development Fund Act".

SEC. 2. The President is hereby authorized to accept participation for the United States in the African Development Fund (hereinafter referred to as the "Fund") provided for by the agreement establishing the Fund (hereinafter referred to as the "agreement") deposited in the Archives of the United Nations.

SEC. 3. (a) The President, by and with the advice and consent of the Senate, shall appoint a Governor, and an Alternate Governor, of the Fund and a Director and an Alternate Director of the Fund.

(b) No person shall be entitled to receive any salary or other compensation from the United States for services as a Governor or Alternate Governor. The Director and his Alternate who shall receive compensation from the United States may, in the discretion of the President, receive such compensation, allowances, and other benefits not exceeding those authorized for a Chief of Mission, class 2, within the meaning of the Foreign Service Act of 1946, as amended.

SEC. 4. (a) The policies and operations of the United States representatives of the Fund shall be coordinated with other United States policies in such a manner as the President shall direct.

(b) An annual report with respect to United States participation in the Fund shall be submitted to the Congress by such agency or officer as the President shall designate.

SEC. 5. Unless Congress by law authorizes such action, neither the President nor any person or agency shall, on behalf of the United States:

(a) agree to an increase in the subscription of the United States to the Fund;

(b) vote for or agree to any amendment of the agreement which increases the obligations of the United States, or which would change the purpose or functions of the Fund; or

(c) make a loan or provide other financing to the Fund, except that funds for technical assistance may be provided to the Fund by a United States agency created pursuant to an Act of Congress which is authorized by law to provide funds to international organizations.

SEC. 6. (a) There is hereby authorized to be appropriated without fiscal year limitation, as the United States subscription, $15,000,000, to be paid by the Secretary of the Treasury to the Fund in three annual installments of $5,000,000 each.

(b) Any repayment or distribution of moneys from the Fund to the United States shall be covered into the Treasury as a miscellaneous receipt.

SEC. 7. Any Federal Reserve bank which is requested to do so by the President shall act as a depository for the Fund, and the Board of Governors of the Federal Reserve System shall supervise and direct the carrying out of these functions by the Federal Reserve banks.

SEC. 8. For the purpose of any civil action which may be brought within the United States, its territories or possessions, or the Commonwealth of Puerto Rico, by or against the Fund in accordance with the agreement, the Fund shall be deemed to be an inhabitant of the Federal judicial district in which its principal office or agency appointed for the purpose of accepting service or notice of service is located, and any such action to which the Fund shall be party shall be deemed to arise under the laws of the United States, and the district courts of the United States (including the courts enumerated in title 28, section 460, United States Code) shall have original jurisdiction of any such action. When the Fund is defendant in any action in a State court, it may, at any time before the trial thereof, remove such action into the district court of the United States for the proper district by following the procedure for removal of causes otherwise provided by law.

SEC. 9. The agreement, and particularly articles 41 through 50, shall have full force and effect in the United States, its territories and possessions, and the Commonwealth of Puerto Rico, upon the acceptance of participation by the United States in, and the entry into force of, the Fund. The President, at the time of deposit of the instrument of acceptance of participation of the United States in the Fund, shall also deposit a declaration that the United States retains for itself and its political subdivisions the right to tax salaries and emoluments paid by the Fund to its citizens or nationals and may deposit a declaration providing for reservations on other matters set forth in article 58.

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

SEC. 10. The President shall instruct the United States Director of the African Development Fund to vote against any loan or other utilization of funds of the Fund for the benefit of any country when the government of such country or any government agency or subdivision within such country—

(1) has nationalized or expropriated or seized ownership or control of property owned by any United States citizen or by any corporation, partnership, or association not less than 50 per centum beneficially owned by United States citizens, or

(2) has taken steps to repudiate or nullify existing contracts or agreements with any United States citizen or any corporation, partnership, or association not less than 50 per centum beneficially owned by United States citizens, or

(3) has imposed or enforced discriminatory taxes or other exactions, or restrictive maintenance or operational conditions, or has taken other actions, which have the effect of nationalizing, expropriating, or otherwise seizing ownership or control of property so owned,

and such country, government agency, or government subdivision fails within a reasonable time (not more than six months after such action, or, in the event of a referral to the Foreign Claims Settlement Commission of the United States within such period as provided herein, not more than twenty days after the report of the Commission is received) to take appropriate steps, which may include arbitration, to discharge its obligations under international law toward such citizen or entity, including speedy compensation for such property in convertible foreign exchange, equivalent to the full value thereof, as required by international law, or fails to take steps designed to provide relief from such taxes, exactions, or conditions, as the case may be; and such suspension shall continue until the President is satisfied that appropriate steps are being taken, and the provisions of the section shall not be waived with respect to any country unless the President determines and certifies that such a waiver is important to the national interests of the United States and such certification shall be reported immediately to Congress.

FEDERAL COLUMBIA RIVER TRANSMISSION SYSTEM ACT

The Senate proceeded to consider the bill (S. 3362) to enable the Secretary of the Interior to provide for the operation, maintenance, and continued construction of the Federal transmission system in the Pacific Northwest by use of the revenues of the Federal Columbia River Power System and the proceeds of revenue bonds, and for other purposes, which had been reported from the Committee on Interior and Insular Affairs with an amendment in the nature of a substitute.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed, as follows:

SHORT TITLE

SECTION 1. This Act may be cited as the "Federal Columbia River Transmission System Act".

FINDINGS

SEC. 2. (a) Congress finds that in order to enable the Secretary of the Interior to carry out the policies of Public Law 88–552 relating to the marketing of electric power from hydroelectric projects in the Pacific Northwest, Public Laws 89–448 and 89–561 relating to use of revenues of the Federal Columbia River Power System to provide financial assistance to reclamation projects in the Pacific Northwest, the treaty between the United States and Canada relating to the cooperative development of the resources of the Columbia River Basin, and other applicable law, it is desirable and appropriate that the revenues of the Federal Columbia River Power System and the proceeds of revenue bonds be used to further the operation, maintenance, and further construction of the Federal transmission system in the Pacific Northwest.

(b) Other than as specifically provided herein, the present authority and duties of the Secretary of the Interior relating to the Federal Columbia River Power System shall not be affected by this Act. The authority and duties of the Administrator referred to herein are subject to the supervision and direction of the Secretary.

DEFINITIONS

SEC. 3. As used in this Act—

(a) The term "Administrator" means the Administrator, Bonneville Power Administration.

(b) The term "electric power" means electric peaking capacity or electric energy, or both.

(c) The term "major transmission facilities" means transmission facilities intended to be used to provide services not previously provided by the Bonneville Power Administration with its own facilities.

THE FEDERAL COLUMBIA RIVER TRANSMISSION SYSTEM

SEC. 4. The Secretary of the Interior, acting by and through the Administrator, shall operate and maintain the Federal transmission system within the Pacific Northwest and shall construct improvements, betterments, and additions to and replacements of such system within the Pacific Northwest as he determines are appropriate and required to:

(a) integrate and transmit the electric power from existing or additional Federal or non-Federal generating units;

(b) provide service to the Administrator's customers;

(c) provide interregional transmission facilities; of

(d) maintain the electrical stability and electrical reliability of the Federal system: *Provided, however,* That the Administrator shall not construct any transmission facilities outside the Pacific Northwest, excepting customer service facilities within any contiguous areas, not in excess of seventy-five airline miles from said region, which are a part of the service area of a distribution cooperative which has (i) no generating facilities, and (ii) a distribution system from which it serves both within and without said region, nor shall he commence construction of any major transmission facility within the Pacific Northwest, unless the expenditure of the funds for the initiation of such construction is specifically approved by Act of Congress.

CONGRESSIONAL APPROVAL OF EXPENDITURES

SEC. 5. (a) Unless specifically authorized by Act of Congress, the Administrator shall not expend funds made available under this Act, other than funds specifically appropriated by the Congress for such purpose, to acquire any operating transmission facility by condemnation: *Provided,* That this provision shall not restrict the acquisition of the right to cross such a facility by condemnation.

(b) At least sixty days prior to the time a request for approval or authority under section 4 or 5 of this Act is sent to Congress, the Administrator shall give notice of such request to entities in the Pacific Northwest with which the Administrator has power sales or exchange contracts or transmission contracts or which have a transmission interconnection with the Federal transmission system.

TRANSMISSION OF NON-FEDERAL POWER

SEC. 6. The Administrator shall make available to all utilities on a fair and nondiscriminatory basis, any capacity in the Federal transmission system which he determines to be in excess of the capacity required to transmit electric power generated or acquired by the United States.

ACQUISITION OF PROPERTY

SEC. 7. Subject to the provisions of section 5 of this Act the Administrator may purchase or lease or otherwise acquire and hold such real and personal property in the name of the United States as he deems necessary or appropriate to carry out his duties pursuant to law.

MARKETING AUTHORITY

SEC. 8. The Administrator is hereby designated as the marketing agent for all electric power generated by Federal generating plants in the Pacific Northwest, constructed by, under construction by, or presently authorized for construction by the Bureau of Reclamation or the United States Corps of Engineers except electric power required for the operation of each Federal project and except electric power from the Green Springs project of the Bureau of Reclamation.

RATES AND CHARGES

SEC. 9. Schedules of rates and charges for the sale, including dispositions to Federal agencies, of all electric power made available to the Administrator pursuant to section 8 of this Act or otherwise acquired, and for the transmission of non-Federal electric power over the Federal transmission system, shall become effective upon confirmation and approval thereof by the Federal Power Commission. Such rate schedules may be modified from time to time by the Secretary of the Interior, acting by and through the Administrator, subject to confirmation and approval by the Federal Power Commission, and shall be fixed and established (1) with a view to encouraging the widest possible diversified use of electric power at the lowest possible rates to consumers consistent with sound business principles, (2) having regard to the recovery (upon the basis of the application of such rate schedules to the capacity of the electric facilities of the projects) of the cost of producing and transmitting such electric power, including the amortization of the capital investment allocated to power over a reasonable period of years and payments provided for in section 11(b)(9), and (3) at levels to produce such additional revenues as may be required, in the aggregate with all other revenues of the Administrator, to pay when due the principal of, premiums, discounts, and expenses in connection with the issuance of and interest on all bonds issued and outstanding pursuant to this Act, and amounts required to establish and maintain reserve and other funds and accounts established in connection therewith.

UNIFORM RATES

SEC. 10. The said schedules of rates and charges for transmission, the said schedules of rates and charges for the sale of electric power, or both such schedules, may provide, among other things, for uniform rates or rates uniform throughout prescribed transmission areas. The recovery of the cost of the Federal transmission system shall be equitably allocated between Federal and non-Federal power utilizing such system.

BONNEVILLE POWER ADMINISTRATION FUND

SEC. 11. (a) There is hereby established in the Treasury of the United States a Bonneville Power Administration fund (hereinafter referred to as the "fund"). The fund shall consist of (1) all receipts, collections, and recoveries of the Administrator in cash from all sources, including trust funds, (2) all proceeds derived from the sale of bonds by the Administrator, (3) any appropriations made by the Congress for the fund, and (4) the following funds which are hereby

transferred to the Administrator: (i) all moneys in the special account in the Treasury established pursuant to Executive Order Numbered 8526 dated August 26, 1940, (ii) the unexpended balances in the continuing fund established by the provisions of section 11 of the Bonneville Project Act of August 20, 1937 (16 U.S.C. 831, et seq.), and (iii) the unexpended balances of funds appropriated or otherwise made available for the Bonneville Power Administration. All funds transferred hereunder shall be available for expenditure by the Secretary of the Interior, acting by and through the Administrator, as authorized in this Act and any other Act relating to the Federal Columbia River transmission system, subject to such limitations as may be prescribed by any applicable appropriation act effective during such period as may elapse between their transfer and the approval by the Congress of the first subsequent annual budget program of the Administrator.

(b) The Administrator may make expenditures from the fund, which shall have been included in his annual budget submitted to Congress, without further appropriation and without fiscal year limitation, but within such specific directives or limitations as may be included in appropriaton acts, for any purpose necessary or appropriate to carry out the duties imposed upon the Administrator pursuant to law, including but not limited to—

(1) construction, acquisition, and replacement of (i) the transmission system, including facilities and structures appurtenant thereto, and (ii) additions, improvements, and betterments thereto (hereinafter in this Act referred to as "transmission system");

(2) operation, maintenance, repair, and relocation, to the extent such relocation is not provided for under subsection (1) above, of the transmission system;

(3) electrical research, development, experimentation, test, and investigation related to construction, operation, and maintenance of transmission systems and facilities;

(4) marketing of electric power;

(5) transmission over facilities of others and rental, lease, or lease-purchase of facilities;

(6) purchase of electric power (including the entitlement of electric plant capability) (i) on a short-term basis to meet temporary deficiencies in electric power which the Administrator is obligated by contract to supply, or (ii) if such purchase has been heretofore authorized or is made with funds expressly appropriated for such purchase by the Congress, or (iii) if to be paid for with funds provided by other entities for such purpose under a trust or agency arrangement;

(7) defraying emergency expenses or insuring continuous operation;

(8) paying the interest on, premiums, discounts, and expenses, if any, in connection with the issuance of, and principal of all bonds issued under section 13(a) of this Act, including provision for and maintenance of reserve and other funds established in connection therewith;

(9) making such payments to the credit of the reclamation fund or other funds as are required by or pursuant to law to be made into such funds in connection with reclamation projects in the Pacific Northwest: *Provided*, That this clause shall not be construed as permitting the use of revenues for repayment of costs allocated to irrigation at any project except as otherwise expressly authorized by law;

(10) making payments to the credit of miscellaneous receipts of the Treasury for all unpaid costs required by or pursuant to law to be charged to and returned to the general fund of the Treasury for the repayment of the Federal investment in the Federal Columbia River Power System from electric power marketed by Administrator; and

(11) acquiring such goods and services, and paying dues and membership fees in such professional, utility, industry, and other societies, associations, and institutes, together with expenses related to such memberships, including but not limited to the acquisitions and payments set forth in the general provisions of the annual appropriations Act for the Department of Interior, as the Administrator determines to be necessary or appropriate in carrying out the purposes of this Act.

(c) Moneys heretofore or hereafter appropriated shall be used only for the purposes for which appropriated, and moneys received by the Administrator in trust shall be used only for carrying out such trust. The provisions of the Government Corporation Control Act (31 U.S.C. 841 et seq.) shall be applicable to the Administrator in the same manner as they are applied to the wholly owned Government corporations named in section 101 of such Act (31 U.S.C. 846), but nothing in the proviso of section 850 of title 31, United States Code, shall be construed as affecting the powers granted in subsection (b)(11) of this section and in sections 2(f), 10(b), and 12(a) of the Bonneville Project Act (16 U.S.C. 832 et seq.).

(d) Notwithstanding the provisions of sections 105 and 106 of the Government Corporation Control Act, the financial transactions of the Administrator shall be audited by the Comptroller General at such times and to such extent as the Comptroller General deems necessary, and reports of the results of each such audit shall be made to the Congress within 6½ months following the end of the fiscal year covered by the audit.

INVESTMENT OF EXCESS FUNDS

SEC. 12. (a) If the Administrator determines that moneys in the fund are in excess of current needs he may request the investment of such amounts as he deems advisable by the Secretary of the Treasury in direct, general obligations of, or obligations guaranteed as to both principal and interest by, the United States of America.

(b) With the approval of the Secretary of the Treasury, the Administrator may deposit moneys of the fund in any Federal Reserve bank or other depository for funds of the United States of America, or in such other banks and financial institutions and under such terms and conditions as the Administrator and the Secretary of the Treasury may mutually agree.

REVENUE BONDS

SEC. 13. (a) The Administrator is authorized to issue and sell to the Secretary of the Treasury from time to time in the name and for and on behalf of the Bonneville Power Administration bonds, notes, and other evidences of indebtedness (in this Act collectively referred to as "bonds") to assist in financing the construction, acquisition, and replacement of the transmission system, and to issue and sell bonds to refund such bonds. Such bonds shall be in such forms and denominations, bear such maturities, and be subject to such terms and conditions as may be prescribed by the Secretary of the Treasury taking into account terms and conditions prevailing in the market for similar bonds, the useful life of the facilities for which the bonds are issued, and financing practices of the utility industry. Refunding provisions may be prescribed by the Administrator. Such bonds shall bear interest at a rate determined by the Secretary of the Treasury taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities, plus an amount in the judgment of the Secretary of the Treasury to provide for a rate comparable to the rates prevailing in the market for similar bonds. The aggregate principal amount of any such bonds outstanding at any one time shall not exceed $1,250,000,000.

(b) The principal of, premiums, if any, and interest on such bonds shall be payable solely from the Administrator's net proceeds as hereinafter defined. "Net proceeds" shall mean for the purposes of this section the remainder of the Administrator's gross receipts from all sources after first deducting trust funds and the costs listed in section 11(b)(2) through 11(b)(7) and 11(b)(11), and shall include reserve or other funds created from such receipts.

(c) The Secretary of the Treasury shall purchase forthwith any bonds issued by the Administrator under this Act and for that purpose is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as now or hereafter in force, are extended to include any purchases of the bonds under the Second Liberty Bond Act, as now or hereafter in force, are extended to include any purchase of the bonds issued by the Administrator under this Act. The Secretary of the Treasury may, at any time, sell any of the bonds acquired by him under this Act. All redemptions, purchases, and sales by the Secretary of the Treasury of such bonds shall be treated as public debt transactions of the United States.

NO TIME FOR PARTISANSHIP

Mr. HUGH SCOTT. Mr. President, these are such grim and serious times as not to permit us the usual opportunities, in a political body, for the usual partisan disagreements. I am sorry about that. I miss the thrust, the parry, and the lightheartedness that go into that kind of political advocacy and partisanship which enlightens debate and sometimes, by chance, illuminates it.

I think that is one of the things we have lost for the time being in these very serious times. The whole Nation really is on the brink of taking its problems with such utmost seriousness, as is natural, that I think it would not welcome that kind of partisanship at this time.

One can only hope that our troubles will be behind us as expeditiously as possible, so that we can return to the elaboration of our differences under the two-party system, in which we recognize the old Supreme Court dictum that a prosecutor may strike hard blows but not foul ones; that the public is entitled to know, through our rivalries and our variant points of view, why they have an option or a choice of issues and a series of courses to follow.

So that I can only join all my colleagues in expressing the strong desire to see our immediate and immensely grave problems behind us, so that we may return to those days when I used to be able to say to the distinguished majority leader, "Today is Thursday, and I am going to be political." We both understood what that meant: that there are times when being political is being a part of the system, just as there are times when being a statesman and responsive to one's uttermost obligations is also part of the system.

So I hope the time will come, and soon, that we can revert to lighter days and happier times and a broader dissemination of those things which divide us; be-

cause by discussing those things which divide us, we find a way to unite us.

Mr. MANSFIELD. Mr. President, I listened with interest to what the distinguished Republican leader had to say, and I would like to make a few comments.

First, may I say, that the situation which confronts Congress today really leaves no room for partisanship. The times are too tragic, the period too troubled, and the constitutional stakes too high.

Having watched some of the proceedings of the House Committee on the Judiciary, I have been tremendously impressed with the way its members have, overall, conducted themselves.

I think that the chairman, Representative PETER RODINO, of New Jersey, an old friend of many years, shunted into the limelight, has performed superbly.

What I have to say about the chairman of that committee applies to the Republican and Democratic members of the committee as well. I think of the superb defense being put on by Representative WIGGINS, of California, and the able constitutional attributes of Representative DENNIS, of Indiana. I think of the deep concern and genuine anguish which are so apparent in Congressmen like Mr. BUTLER, of Virginia, Mr. FLOWERS, of Alabama, Mr. HOGAN, of Maryland, and Mr. RAILSBACK, of Illinois.

I am greatly impressed as well by the deep sensitivity of Representative JORDAN, of Texas, to the fundamental principles of the Constitution and her total belief in it.

Many others could and should be mentioned individually, but my accolade goes to all of them regardless of their views, because I think they have in the minds, hearts, ears, and eyes of the people elevated the status of the Congress as a whole. We in the Senate have benefited from witnessing these proceedings and have only admiration for the dignity, the decorum, and the real concern which all the members of that committee have shown.

No one of them had an easy decision to make. All of them had to face up to a difficult judgment, and all of them, in my opinion, lived up to their responsibilities in the best manner possible and, I repeat, reflected great credit on the Congress as a whole.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. At this time under the previous order the Chair recognizes the distinguished assistant majority leader, the able Senator from West Virginia (Mr. ROBERT C. BYRD).

TELEVISING AND BROADCASTING OF IMPEACHMENT PROCEEDINGS

Mr. ROBERT C. BYRD. I thank the Presiding Officer, the distinguished Senator from Alabama.

Mr. President, there is a growing awareness that the Senate may soon be faced with an impeachment trial of the President of the United States. While it is not an absolute certainty that the House of Representatives will impeach the President, I believe we would be prudent to consider matters that would be of moment and importance if the House should vote to send articles of impeachment to the Senate.

The televising and broadcasting of the debates and actions by the House Judiciary Committee have allowed the American people, as a whole, for the first time, to hear for themselves and to consider the charges made against the President and the arguments against the charges.

Our citizens have also been shown graphically the Congress as it really works—not solely as seen by media news reports and commentators or through the press releases of the principals.

On June 30, 1973, I introduced Senate Resolution 136, which would authorize the Senate Committee on Rules and Administration to conduct a study as to the feasibility of radio and television broadcasting of actual sessions of the Senate, because I feel that the Congress must be brought back to the people. Later today, I shall submit a resolution—the distinguished majority leader (Mr. MANSFIELD), and others will join me at that time, which would allow the proceedings of a Senate trial of an impeachment to be broadcast by radio and television—if the President is impeached by the House. The Senate Committee on Rules and Administration would be charged with recommending the adoption of such rules and regulations as it deems appropriate to recommend to the Senate to govern such radio and television broadcasts.

Rule IV of the rules for regulation of the Senate wing of the Capitol prohibits the taking of pictures of any kind in the Senate Chamber. This rule has been temporarily suspended by the Senate twice before—in 1963 and in 1971—to allow photographs of the Senate in actual session.

I would hope that the Rules Committee would recommend suspension of the rule and recommend procedures to minimize any problems that could arise due to live broadcasting.

The technology has advanced to the extent that cameras, cables, and other broadcast paraphenalia can remain unobtrusive, and the lighting can be so subdued as not to interfere with the proceedings of such a trial. Under the Senate impeachment rules and precedents, as they presently stand, Senators are not permitted to debate or engage in colloquy in open session. All discourse and arguments in open session will be conducted by counsel for the defense, the managers on the part of the House, and the Presiding Officer at the trial. Any debate among Senators will be in closed session, unless the Senate otherwise orders, and would, therefore, not be televised. Therefore, the objections commonly raised by many—to the effect that a televised trial of an impeachment would create a "circus" atmosphere and that Senators would play to the cameras—have no basis whatever in fact.

If the Senate is faced with an impeachment trial, I feel it is imperative that the American people have confidence in the justice, the fairness, and the correctness of the decision—whatever the final disposition may be on the charges brought by the House.

The American people will want to hear for themselves, see for themselves, and decide for themselves.

I would wish that the Senate and the country were spared the trauma of a trial of an impeachment of the President. If one chooses to be realistic, however, I think that the time for such wishful hoping is coming to an end. The Senate, too, will be on trial, as the distinguished majority leader has said many times, because the constitutional system itself will be on trial. It is vitally important, therefore, for the future confidence in that constitutional system, that the American people be able to judge with their own eyes and ears the validity and wisdom of the constitutional process. Whatever the results of such a trial, the system has the strength and the Nation has the strength to endure if the people are convinced that the trial is fair and that the decision is correct.

The televising and broadcasting of such an event would help to insure this and would help to strengthen the faith of the American people in the American political and constitutional process.

Mr. President, I yield back the remainder of my time.

The ACTING PRESIDENT pro tempore. At this time, in accordance with the previous order, the Chair recognizes the distinguished senior Senator from Illinois (Mr. PERCY).

IMPEACHMENT TRIAL

Mr. PERCY. Mr. President, the subject for which I had asked time to discuss this morning is not related to the discussion of our distinguished assistant majority leader and the decision of the leadership on an impeachment trial but I will very briefly give my own observations on this matter.

I have long taken the position that if the Senate of the United States has a trial that the trial should be open for television, radio and all media. It was my hope, and I have expressed this hope to the majority leader, that it could be done in such a way that the decorum and dignity of the Senate would not in any way be disturbed.

I see no reason why groups of cameras should be permitted, I see no reason why panning in on Senators sitting in the Senate need be permitted, but I do feel it is important to share with the American people, and in a sense with the whole world, the proceedings that would occur in the Senate of the United States if we do have a trial.

I think the judgment of the majority leader in this regard and his early comments have been borne out by the reaction of the country already to the proceedings of the Judiciary Committee in the House.

Since the early 1930's there has been a strong erosion of power of the Congress and at times a lack of confidence in the Supreme Court and the judiciary branch of the Government, as power in the executive branch is strengthened and concentrated.

It is not only the strengthening of power in the executive branch that concerns me but increasingly through the years a strong concentration of power

in the White House itself has taken place at the expense of the agencies and the departments of Government.

The authority and responsibility of Cabinet officials has been diminished at the expense of assistants to the President, who really in a sense hold the power and yet do not hold any elective office.

I think this process now is reversing itself.

Through the natural process of the working of the Constitution, we are coming to better understand the genius of the constitutional separation of powers that has been provided in the checks and balances provided in our Constitution.

Our Government ultimately can never be any better than the understanding that people have of it, and for too long too many of the people in this country have believed the Federal Government was really the executive branch of Government, and that the two other branches were not that coequal; they were really, in a sense, subordinate.

The Supreme Court of the United States, in a decision on the tapes and the insistence that the President obey the order of the district court has indicated by its actions and its words it is the final arbiter of the law. Certainly this decision, overwhelmingly supported by the American people and now supported by President Nixon, has restored, I think, a great deal of balance and a great deal of prestige to the judicial branch of Government.

In recent days, I feel that a great deal of balance has also been restored to the congressional branch simply by enabling the American people to see the judgment, the care, the deliberation, the wrenching of conscience by voting one's conviction by the members of the House Committee on the Judiciary. Whether we share or not the positions they have taken, no one could be less than impressed with the fact that they are laboring with a complex matter that few would want to be placed in a position of having to judge, and yet the judgments that are coming forth, in accordance with the constitutional responsibility of these men and women, are doing great credit in the constitutional process and doing great credit, I believe, to the House of Representatives. I am proud of both of my distinguished Illinois colleagues on the Judiciary Committee, Congressmen ROBERT MCCLORY and TOM RAILSBACK as I am deeply impressed with the dedication to duty and work of every single member of the committee and its staff, regardless of how they have voted. They have distinguished themselves as they have brought distinction to the House of Representatives.

It is my firm belief that, in accordance with the rules that can be laid down and will be laid down by the Committee on Rules and Administration, the Senate can carry on this matter with necessary decorum. Processes can be worked out technically, to insure that radio and television coverage would not in any way affect the dignity and solemnity of the Senate. I fully, as one Member of the Senate, intend to support the decisions of the Committee on Rules and Administration with respect to opening the process, if we do have a trial, to the American people, to help them fully understand and appreciate the processes of constitutional government as they see it carried out on the floor of the Senate.

I yield to the assistant majority leader.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the time remaining out of my order which I had yielded back be reserved to me.

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

Mr. ROBERT C. BYRD. I now ask unanimous consent to yield such of that time as the Senator may need, in addition to his own time, to the Senator from Illinois.

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

Mr. PERCY. I thank my distinguished colleague.

THE NEED FOR REDEFINITION OF LONG-TERM CARE FACILITIES

Mr. PERCY. Mr. President, it is within the realm of possibility that the laws and regulations of the U.S. Government may actually result in serious illness or death for some 10,000 elderly persons.

Let me explain.

With the best intentions in the world, the Congress provided for a common definition of covered care for long-term care facilities for both the medicare and medicaid programs in section 247 of H.R. 1—Public Law 92-603. The Congress adopted as the standard for covered skilled nursing facility services the definition developed for the medicare program. This definition is a narrow and restrictive one, designed for the medicare post-hospital benefit, which will halt the medicaid practice of serving the chronically ill and multiple-diseased individual whose need for skilled care is not associated with convalescence from acute illness but is caused by the consequences of advanced age and increasing frailty and the interaction of social and psychological factors with disease and disability. The result will be to sharply limit the eligibility of medicaid patients for skilled nursing care.

I do not believe any Member of the Congress foresaw or intended that section 247 would thus result in perhaps as many as a quarter of a million being reclassified as intermediate care patients or even discharged.

Evidence exists that this is precisely what is likely to happen when final regulations implementing this section are issued. In some States reclassification and forced relocation of nursing home residents is already taking place in anticipation of these regulations.

But what does this have to do with death or serious illness for up to 10,000 senior citizens? It is a fact, as studies done by scholars at the University of Michigan and elsewhere indicate, that mortality and morbidity rates among elderly institutionalized persons who are relocated against their will skyrocket unless they are properly prepared for the transfer. Old people simply get sick and, in some instances die, when they are precipitously wrenched from one environment and thrust into a new one.

I ask unanimous consent that these studies be incorporated in the RECORD as exhibit A at the conclusion of my statement.

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

(See exhibit A.)

Mr. PERCY. The National Association of Directors of Health Facility Licensure and Certification Programs estimates that the literal application of the medicare definition to the 315,000 or so medicaid patients now in skilled nursing facilities could result in the reclassification of as many as 250,000 of these patients.

Mr. President, the study, Relocation Report No. 2, entitled "Death and Survival," undertaken by the Institute of Gerontology at the University of Michigan, Wayne State University, had this to say, quoting only an extract from the report:

> Our search for answers to the questions of what happens to elderly patients when they are relocated, why these reactions occur, and what can be done to reduce negative effects has focused on the Washtenaw and Lapeer County Medical Care Facilities in Michigan. The Washtenaw Facility (WCMCF) was closed in June of 1971 due to alleged deficiencies in the building, and most patients were moved to the Whitmore Lake Convalescent Center (WLCC). This move required the patients to adjust to changes not only in their physical "home," but also to changes in the staff taking care of them, in their daily program, and in their relationships with other patients.

Skipping over to page 3, on Relocation and Death the report continues:

> 1. Patients at the Washtenaw County Medical Care Facility died at a much higher rate during the year of relocation than during the previous five years at the same institution. A total of 34 percent of the 61 patients at WCMCF died during the six months before and the six months following the move to the Whitmore Lake Convalescent Center. The average annual death rate during the five years before the move at WCMCF was 21 percent.
>
> 2. The anticipation of relocation and the disorganization during and immediately after a move are especially lethal to elderly patients. During the year of the move, relocated WCMCF patients died at a rate three times that of the matched control patients at the SCH who were not relocated (see Table 1). However, during the three months before the move, the death rate for the relocated WCMCF group was six times greater than the rate for the stable SCH group. The rate was about eight times higher during the three months immediately after the move (see Table 2).

Skipping to page 6 of the report, with special reference to women:

> Despite women's longer life expectancy, they are much more vulnerable to relocation than men. Table 5 shows that death rates for women who were moved were more than twice as high as death rates among women in the control group. In contrast, the death rate for relocated men was only slightly higher than the control group.
>
> No conclusive explanation can be given now for this finding but observations by our interviewers suggest that women may become more attached to and involved with the institutional environment. Occupation therapy and craft programs tend to stress activities preferred by women.
>
> Women thus tend to make greater use of these programs than men do. Our interviewers also noted that women more often than men personalize their rooms with photographs and other decorations. In other words, women seem more integrated with the institutional environment than men who, by con-

trast, seem less involved. If these observations are correct, they would seem to follow the pattern noted previously, where the more disruptive move was more lethal. For women, who have greater personal investments in the environment, relocation is more disruptive.

Mr. President, virtually all of us have had intimate association with older people. We recognize that the older one gets the greater magnitude a small incident takes on.

I have talked with many, many patients who have received a bill for medicare charges, after they had reasonable assurance that their expense was fully covered by the medicare program, and they still received a bill for $10, $12, $15, sometimes higher. It is not only that they might have difficulty paying the charge, but they felt that they had been taken in. They felt that the costs were covered, when they find that subsequently they are forced now to make a payment that they had not budgeted.

This kind of thing gnaws at them. It bothers older people, and we can all see those tendencies. Imagine then when the Government comes in and, by a sweeping edict and by a regulation and directive of HEW, simply takes people who have been housed in a nursing home for years, and precipitously moves them, when they have been in a community, in an institution, in an association, where they have had staff personnel, they have had their rooms, they have a regular routine that they regularly follow, sometimes for years. To suddenly be moved the way Government sometimes arbitrarily acts, without proper notification and without proper indoctrination, without telling them why—we can well imagine what effect that would have on these older people.

The National Association of State Health Facility, Licensure and Certification Program directors argues that it is not unreasonable to suggest, based on all that we know about the effects of involuntary transfer of older institutional persons, that all 100,000 patients that will be affected would suffer some distress, and that as many as 10,000 would become increasingly physically ill or would die.

I ask unanimous consent that an analysis of this program prepared by the association be incorporated as exhibit B at the conclusion of my remarks.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. (See exhibit B.)

Mr. PERCY. Mr. President, certainly we must not by our previous actions or by our present inaction sentence to death 10,000 aged Americans.

I have introduced a bill, S. 3503, cosponsored by Senators Moss and CLARK, which will deal with the immediate problem we face and the more general problem of forced transfers and relocations from long-term care facilities.

My bill contains the following provisions:

It would require that transfers be made only when it is determined that they are in the interest of the patient.

It requires that patients be informed about impending transfers and be given the right to appeal the determination.

I recently wrote to the distinguished chairman of the Finance Committee (Mr. LONG) and the distinguished ranking minority member (Mr. BENNETT) to request that the committee schedule hearings on this very important legislation. The indications are that the able leadership of this committee as well as its other distinguished members are aware of the need for timely action on this measure.

I have also written to Secretary Weinberger to ask him to delay implementation of section 247 until such time as the Congress has been able thoroughly to study the likely consequences of the provision. I also asked him to use his influence with the States in order to avoid premature and possibly disasterous action from being taken in anticipation of orders from the Department of Health, Education, and Welfare.

I ask unanimous consent that the text of my letters to Senators LONG and BENNETT and to Secretary Weinberger be incorporated in the RECORD as exhibit C after conclusion of my remarks.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. (See exhibit C.)

Mr. PERCY. The response to my legislation from around the country has been impressive. Providers and consumers alike realize that we are facing a very dangerous situation indeed.

S. 3503 has been endorsed by the National Retired Teachers Association—American Association of Retired Persons and by the recent constitutional convention of the National Council of Senior Citizens. It has been endorsed by the American Association of Homes for the Aging.

I ask unanimous consent that the letter to Senator LONG endorsing S. 3503 from Cyril Brickfield, legislative counsel of the NRTA–AARP, be incorporated in the RECORD as exhibit D at the conclusion of my remarks together with a sampling of the letters of support I have received from around the country.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. (See exhibit D.)

Mr. PERCY. I want to emphasize in closing that I am not opposed to relocating patients when relocation is in the patient's interest. There are circumstances in which transfer to a different setting is a positive benefit to the patient. In these situations ways exist to minimize the threat to an elderly person's health and well-being and my bill calls for these steps to be taken. However, in our zeal to fend off the evil called "overinstitutionalization of the elderly" which we have all heard so much about, we are perilously close to denying care to those we intended to help and inflicting grievous harm upon the most helpless and vulnerable members of our society.

Mr. President, we face a crisis situation. It is time for rethinking our present policies and taking steps to revise them. S. 3503 offers the appropriate starting point.

EXHIBIT A

[From the Institute of Gerontology, the University of Michigan—Wayne State University]

RELOCATION REPORT 2—DEATH AND SURVIVAL

This issue of Relocation Reports is the second in a continuing series of reports to the many people who have become interested in or involved with our research. The first issue provided a general overview of the study. This issue focuses on some preliminary findings about (1) death rates, and (2) behavior changes among elderly patients after they have been moved.

THE STUDY TO DATE

Our search for answers to the questions of what happens to elderly patients when they are relocated, why these reactions occur, and what can be done to reduce negative effects has focused on the Washtenaw and Lapeer County Medical Care Facilities in Michigan. The Washtenaw Facility (WCMCF) was closed in June of 1971 due to alleged deficiencies in the building, and most patients were moved to the Whitmore Lake Convalescent Center (WLCC). This move required the patients to adjust to changes not only in their physical "home," but also to changes in the staff taking care of them, in their daily program, and in their relationships with other patients. In contrast, patients at the Lapeer Facility (LCMCF) moved in November of 1971 from an old building to a new structure on the same property about 500 yards away.

While the physical environment changed, the staff, patients, and program remained the same. At both Washtenaw and Lapeer, patients were interviewed before the move about their life in the old home, how they felt about moving, and their anticipations about their new home. Four follow-up interviews were scheduled over the year following each of the moves at Whitmore Lake and Lapeer, to examine how patients adjusted to their new environment over the long term, where they experienced problems, and how they went about reshaping their lives. At the same time, information was collected from the staff on the patients' health and the types of medical services required. Interviewers also observed patients in various activities so that changes in activity patterns over time could be examined.

To date, the four follow-ups at Whitmore Lake on the patients moved from the Washtenaw facility have been completed. Three of the four follow-ups at Lapeer have also been completed, with the final follow-up scheduled for November.

In order to complete the picture of the effects of relocation, we are also collecting and evaluating similar information about patients in the Sandusky County Home (SCH) in Fremont, Ohio, a similar medical care facility that did not move its patients. The addition of the SCH to our study allows us to compare and contrast the experience of patients who move with the experience of patients who do not move. Completion of the final follow-up at the Sandusky facility is scheduled for December, and this will mark the end of the data collection phase of our study.

RELOCATION AND DEATH

One of the reasons we undertook this study was to understand more fully the relationship between involuntary relocation and death (see Relocation Reports #1). Our findings thus far, though preliminary cast considerable light on the nature of this relationship. The summary findings are as follows:

1. Patients at the Washtenaw County Medical care Facility died at a much higher rate during the year of relocation than during the previous five years at the same institution. A total of 34 percent of the 61 patients at WCMCF died during the six months before and the six months following the move to the Whitmore Lake Convalescent Center. The average annual death rate during the five years before the move at WCMCF was 21 percent.

2. The anticipation of relocation and the disorganization during and immediately after a move are especially lethal to elderly patients. During the year of the move relocated WCMCF patients died at a rate three

times of the matched control patients at the SCH who are not relocated (see Table 1). However, during the three months before the move, the death rate for the relocated WCMCF group was six times greater than the rate for the stable SCH group. The rate was about eight times higher during the three months immediately after the move (see Table 2).

3. In contrast, the less disruptive move at Lapeer County Medical Care Facility was not immediately followed by a significantly higher death rate. The move at Lapeer was from an old building to a new one on the same property. Program, staff, and patient relationships were substantially unchanged. In the six months before and the six months after the move, 25 percent of the Lapeer patients died. Twenty-two percent of the patients died during each of the previous two years, the years for which data were available.

The Lapeer death rate was higher in comparison with matched control population at Sandusky County Home, the numbers involved were small and the difference statistically significant (see Table 3). Some 22 percent of the Lapeer matched group died, compared with 13 percent at SCH. However, at Lapeer as well as Washtenaw, deaths were more frequent in the months just before and just after the move (see Table 4).

The apparent difference between death rates surrounding these two moves seems clear. The total uprooting at Washtenaw—involving a new building, new staff, new program, and new patient relationships—was highly lethal to the patients. Tentatively, we may conclude that the Lapeer move, which by contrast involved only relocation to a new building, was less dangerous to life. However, additional follow-up information may reveal a different pattern over a longer time span, and hence a different conclusion.

Are we to conclude that the extent of change is the important variable? Are social contacts and supportive program more important in relocation than changes in the physical environment? We cannot answer these questions now. Analysis of interview and other data should provide more clues. Especially important will be interviews with the survivors, examining how life has changed for them. Future issues of Relocation Reports will discuss these questions.

WHO DIES?

Some patients take relocation in stride, suffering few bad effects, perhaps even stimulated by all the excitement. For others, a move is so traumatic that it leads to their deaths. Why?

Table 5 presents our preliminary data about factors related to death rates. We are studying many variables. Here we break down the WCMCF patients, who died according to age, sex, and length of stay. The figures are compared to those for the matched control group over the same time period. Since relocation occurred in June 1971, the time period shown encompasses six months prior to and 11 months following relocation. Our conclusions follow:

1. Relocation is equally devastating for elderly patients regardless of age. It appears from Table 5 that death rates are higher for older relocated patients. However, more patients over 78 years of age died at the control facility too. This probably reflects the fact that people over 78 have fewer years to live than younger people, and die at a higher rate whether they are relocated or not.

2. Despite women's longer life expectancy, they seem much more vulnerable to relocation than men do. Table 5 shows that death rates for women who were moved are more than twice as high as death rates among women of the control group. In contrast, the death rate for relocated men was only slightly higher than the control group.

No conclusive explanation can be given now for this finding, but observations by our interviewers suggest that women may become more attached to and involved with the institutional environment. Occupational therapy and craft programs tend to stress activities preferred by women. Women thus tend to make greater use of these programs than men do. Our interviewers also noted that women more often than men personalize their rooms with photographs and other decorations. In other words, women seem more integrated with the institutional environment than men who, by contrast, seem less involved. If these observations are correct, they would seem to follow the pattern noted previously, where the more disruptive move was more lethal. For women, who have greater personal investments in the environment, relocation is more disruptive.

3. A move is more dangerous for recently admitted patients than for long term residents. Table 5 shows that the death rate among patients resident for less than a year was four times higher than for non-relocated patients hospitalized for the same period of time. Longer term residents who were moved died at about the same rate as the control population. We surmise that patients who have just recently moved into a facility which undergoes relocation have been taxed by the disruption involved in their admittance. It seems reasonable to conclude that a second move, following their admission by a year or less, taxed their resources beyond endurance.

We are examining the reasons for high death rates in much greater detail than Table 5 indicates. For example, we want to know whether the external environment personal factors make people more vulnerable to death. Do they die because the environment is changed? Or do the reasons lie in their health, personality, life style, emotional stability, and perception of the move? Also, how does the environment really affect patients undergoing relocation? How do changes in accessibility to various areas in the building affect different patients? Is their ability to control peripheral spaces affected by the move? What needs do they have for privacy and how do they react when opportunities for privacy are changed? Our ability to identify those people who are placed in special jeopardy by relocation depends on an answer to these questions. Then we will be able to recommend preventive measures that will reduce and hopefully eliminate the adverse consequences of relocation.

DO THE SURVIVORS ACT DIFFERENTLY?

In addition to examining the reasons for increased death rates, we also want to know why those who survive a move behave differently after relocation. The data we have now consists of assessments of behavior just before the move compared to observations just afterwards. This is enough to suggest that substantial changes do occur.

At the Lapeer facility, patients were moved from fourteen-bed wards to two-patient bedrooms. They moved from an antiquated building with few activity areas and little equipment to a modern building stocked with equipment in easily accessible areas. After the move, there was a marked increase in the number of patients engaging in functional goal-directed activities such as working on various tasks, engaging in craft work, or taking a concern for personal care; and a corresponding decrease in the number of patients exhibiting the passive behavior so familiar in institutions (see Table 6).

On the other hand, the Washtenaw patients moved to a facility where both program activities and activity leaders were new to them. We observed an increase in the number of patients sitting around passively and a decrease in the patients involved in meaningful activities (see Table 7). They were more withdrawn and solitary.

We are now examining the reasons for this. Are these only early adjustment reactions? Will they be sustained over time? The changes already noted do suggest the importance of environmental factors in affecting the behavior of elderly patients in institutional settings.

Copies of Relocation Reports #1 and additional copies of this report may be obtained from the project secretary, Mrs. Nancy Meyer, 543 Church St., Ann Arbor, Michigan 48104, Call (313) 763-4470.

Further information may be obtained from the Co-Project Directors, Dr. Norman Bourestom and Dr. Leon Pastalan, at the same address.

TABLE 1.—DEATH RATE IN YEAR OF RELOCATION[1] FOR WCMCF AND CONTROLS

Facility	Number of patients studied	Percent survivors	Percent deaths
WCMCF	61	66	34
WCMCF controls at SCH	61	89	11

[1] Encompasses the period 6 mo before and 6 mo after relocation.

TABLE 2.—TIME OF DEATHS AT WCMCF AND CONTROL IN RELATION TO RELOCATION

Facility	Before move		After move	
	4 to 6	1 to 3	1 to 3	4 to 6
WCMCF	3	6	8	4
WCMCF controls at SCH	3	1	1	2

TABLE 3.—DEATH RATE IN YEAR OF RELOCATION[1] FOR LCMCF AND CONTROLS

Facility	Number of patients studied	Percent survivors	Percent deaths
LCMCF matched subgroup	38	79	21
LCMCF controls at SCH	38	87	13
Total LCMCF group	57	75	25

[1] Encompasses the period 6 months before and 6 months after relocation.

TABLE 4.—TIME OF DEATHS AT LCMCF AND CONTROL IN RELATION TO RELOCATION

Facility	Before move		After move	
	4 to 6 mo.	1 to 3 mo.	1 to 3 mo.	4 to 6 mo.
LCMCF total group	1	5	5	3
LCMCF matched subgroup	0	4	2	2
LCMCF control at SCH	1	1	3	0

TABLE 5.—DEATH RATES ACCORDING TO AGE, SEX, AND LENGTH OF STAY

	Percent deaths WCMCF	Percent deaths SCH
Age:		
Under 78	22	10
Over 78	59	28
Sex:		
Male	27	18
Female	46	20
Length of stay:		
Under 1 year	60	15
Over 1 year	33	21

TABLE 6.—CHANGES IN ACTIVITY OF LCMCF PATIENTS IN RELATION TO RELOCATION

[In percent]

	1 mo. before move	1 mo. after move
Passive behavior	35	16
Goal-directed activity	9	25

TABLE 7.—CHANGES IN ACTIVITY OF WCMCF PATIENTS IN RELATION TO RELOCATION

[In percent]

	1 mo. before move	1 mo. after move
Passive behavior	21	30
Goal-directed activity	22	5

RELOCATION REPORT 3—PREPARATION FOR RELOCATION

II

Staff preparation

The program's first phase was a two-week period of staff preparation. Because the staff of the county home often had great influence on patients' attitudes, it was felt they could help greatly if they were familiar with the new setting. The staff preparation consisted of two parts. First, the county staff visited the convalescent center, talked with its administrator and staff, and became familiar with the new procedures patients would have to adjust to. Second, staff and the research team held weekly open-ended meetings where staff could discuss their problems, grievances, and concerns and ask factual questions about the new facility. These meetings were valuable in maintaining staff morale. This was particularly important since the staff was being terminated and many were looking for new jobs while the preparation for the move was underway.

Patient preparation

The patient preparation program took place in three phases.

1. *Phase I.* During the middle of April, all patients who were medically able were taken to the new convalescent center and given a tour of the facility. Patients visited in groups of five to seven and were escorted on the tour by staff members from the county home and Whitmore Lake Convalescent Center. The visit was followed immediately by a group discussion led by one county home staff member, who encouraged the patients to talk openly about the move and to ask questions. The staff person also told the patients about the rest of the preparation program and invited discussion about it. The purpose of the initial visit and discussion was to decrease the number of unknowns and to bring anxiety and fear into the open.

Most of the patients who were able to comment on the initial visit to the new facility said, in general, that it was helpful. Some complained that the tour was too short and that they didn't see much besides the lounge and the dining room. The visit did succeed in prompting many questions about the new facility.

2. *Phase II.* In the second phase of preparation, the patients were divided into two groups. Group I visited the new setting three more times. Group II remained at the county home and was acquainted with the convalescent center through slides and pictures.

The two groups were of equal size and were matched as closely as possible according to sex, age, length of hospitalization, and physical condition. Each of the large groups was sub-divided into small groups of six or seven with a county home staff member as leader.

The Multi-visit program was carried out with Group I over a period of three weeks. The first visit was to acquaint the patients with the dining room at the new facility. They toured the dining room, observed the routine, and then ate lunch, sitting together in their sub-groupings. This visit was thought to be important since meal times are usually the most important events in the day-to-day lives of the institutionalized elderly and food is a subject of great interest and concern.

The second visit was to the Center's recreational and workshop areas. Patients met the area supervisor, were shown tools and other equipment, and were told about the various activities available.

The third visit was a formal attempt to acquaint the patients with the staff and patients of the new facility. Patients met the administrator and staff who would care for them. On this final visit, patients had an opportunity to choose their rooms.

The impact of these visits is hard to assess. Contrary to the original plan, the group was kept together during these visits and patients had little opportunity for individual exploration. One staff member thought the visits provided an effective mechanical orientation, but did not do much to socialize the patients. In a post-move interview, patients who made the three visits divided about equally between positive and negative judgments about them.

Each of the three visits lasted an hour or more. Each visit increased in amount. Sub-groups met to discuss the visit within 24 hours. The discussion sessions were intended to reduce apprehension and anxiety and to refresh the patients' memories.

Group II did not see the convalescent center again until moving day. Instead, they remained at the county home and participated in a preparation program which included slides and other visual materials. In the first session, each sub-group viewed color slides of the new facility. The slides were arranged to give the impression of approaching and entering the building. Also pictured were areas within the building, specific objects such as furniture and physical therapy equipment, and members of the staff. The sub-group leader gave a running commentary and conducted discussion while the slides were being shown.

The second session consisted of looking at color and black and white reproductions of the slides. Patients were able to pass the photos around and look at them as long as they wanted. This was thought to be particularly important for mentally confused patients.

The third session was a visit from the administrator of the new facility who discussed such day-to-day policies as money, laundry, and visiting hours.

The slide and photograph sessions prompted questions about the facility and seemed to reinforce memories of the visit the patients had made. The photo session lasted longer than the slide show and seemed more interesting. There was some indication that the slide screen was too small for many patients.

Other types of help were provided to patients in each group. Each patient had the opportunity to express preference for bed position in the new room and for roommates. Patients were given calendars to hang in their rooms with their moving day circled. A certain amount of informal counseling was provided by staff to any patient who asked for it. Most of this counseling was designed to smooth out disruptive individual problems pertaining to the move.

Discussion groups

The discussion groups for both Groups I and II were generally similar in content and structure. The research team analyzed the discussions from cassette tape recordings. One discussion leader said the discussion became more lively when the tape recorder was turned off, so there is some indication that the content analysis may not reflect the whole range of patient reactions.

Most of the patients' questions were about furnishings within the new facility, particularly about matters which might affect their mobility and independence. Examples are questions about whether wheelchairs could fit in the dining room, whether the height of the beds could be changed, the amount of carpeting in the facility, etc. Next in frequency were questions about policy and procedural questions such as visitors, meals, and laundry. Patients asked few questions about the nursing staff and medical treatments.

Group leaders were able to uncover patients' emotional feelings about the move only by intensive questioning and probing. Some patients consistently denied the reality of the move throughout the preparation program. It is unclear whether a longer program would have gotten through to them.

3. *Phase III* of the preparation was the move itself. County facility staff escorted all patients to the new facility on moving day. They helped patients according to their expressed or perceived needs. Assistance ranged from escorting patients to the front door to feeding the patient his first meal. The patients were moved in groups of five or six per day.

Help from relatives

A general meeting of patients' legal next-of-kin or key family member was held at the county home. The purpose of the meeting was to encourage the relatives to give the patients emotional support during the difficult period before and after the move. Approximately 25 relatives attended the meeting, which was conducted by the administrator of the home and by members of the research team. Patients were not included in the meeting because the staff wanted to directly urge relatives to help them and because the meeting was also an opportunity for relatives to express their anger, problems and fears. The home's social worker reported that the meeting was successful in eliciting response from relatives and in clarifying and answering their questions.

III

RESULTS OF THE PROGRAM

Patients

The multi-visit preparation program had a dramatic effect on the patient mortality rate. Within one year of the move, more than half of Group II (single visit) had died (52 percent). The rate for the patients who had made four visits was 27 percent. The groups were closely matched on age, sex, degree of illness, physical limitation, mental status, and level of behavior. Consequently, the differences in their mortality rates are not attributable to these factors.

Previously, we had shown that length of hospitalization was a factor that affected mortality rates following relocation (see Relocation Report No. 2). Therefore, we attempted to determine whether longer and shorter hospitalized patients were affected differently by the two programs. Over three-fourths of the patients in our study had been hospitalized more than one year. For these patients, the differences in the effect of the two programs were obvious and dramatic. In Group II 53% of the longer hospitalized patients died whereas in Group I the mortality rate of longer hospitalized patients was reduced to 18%. A similar statement cannot be made about the short hospitalized patients, i.e., those hospitalized less than one year because the number of patients falling into this category was too small to permit valid comparisons. Our conclusion is that preparation involving multiple site visits has a marked effect on reducing mortality rates among relatively long hospitalized patients. We are uncertain about whether it has a similar effect on short hospitalized patients.

These mortality rates support the benefits of familiarization and multiple task assignments in a new environment in order to pre-

pare elderly patients for relocation. Future research should study the optimal number of visits and the best way to expose such people to a new environment.

Staff

The research team felt the involvement of the staff in the preparation program was crucial to its success. Not only were staff supportive of the patients, but the need to help prepare the patients for the move gave the staff a concrete goal to achieve at a time which was also difficult for them. The main deficiency in this aspect of the program was a feeling that various time and organizational problems prevented the staff from being more helpful.

The particular circumstances of the medical facility's closing prevented most staff from becoming completely familiar with the new facility. There simply wasn't enough time for all staff members to free themselves from their regular responsibilities to travel to the new facility for a full orientation. Consequently, leaders of the sub-group discussions frequently were forced to refer patients to the social worker or the assistant head nurse for full answers to their questions. Often, this prolonged rather than relieved patients' anxiety.

Another weakness was confusion about the staff escort's responsibility when taking the patient to the new setting on moving day. The point where the former staff person's responsibilities ended and the new staff took over should have been defined more clearly. It was also felt that some provision should have been made for the former staff to remain in touch with the patient for at least a few days after he moved into the new setting. Questions about treatment procedures, financial arrangements, family issues, rules in the new facility, and other problems could have been smoothed over with the former staff acting as a communications liaison.

The research team felt that a major accomplishment of the program was its success in eliciting response from the patients. Patients' reactions were varied. Some felt that the preparation program was very helpful; others termed it deceptive. Some consistently denied the reality of the move. Only a small group was apathetic and neutral. It was felt that this emotional response—even negative response—was healthy for people caught up in a difficult situation.

CONCLUSIONS, RECOMMENDATIONS, AND SUMMARY OF IMPRESSIONS

A. A preparation program including site visits with a program of environmental familiarization and multiple task assignments was dramatically successful in reducing the mortality rate of elderly patients following relocation.

B. Portions of the preparation program which seemed to be effective:

1. Total involvement of the staff gave staff cohesiveness and contributed to patient support.
2. Involvement of all levels of staff.
3. Inclusion of all patients who are physically able to participate.
4. Group meetings to discuss field visits.
5. Individual follow-up for patients with special problems or concerns.

C. Portions of the preparation program which might be more effective if changed:

1. Planning time for the program should be longer.
2. Involvement of the new facility staff should be increased.
3. Actual moving time should be extended so patients have the time and attention to get settled and staff have an easier time absorbing the new patient load.
4. Greater effort to involve relatives and volunteers in assisting with the visits.
5. Increase direct communication between former and new staff.
6. Continue patient group meetings with new staff to solve post-move problems.
7. Keep field visits flexible to the expressed needs of the patients.
8. Consider the decreased ability for vision and hearing during the visits and discussion groups.

D. Suggestions for consideration while planning a preparation program:

1. Flexible deadlines and sufficient time for preparation (planning and program) should be negotiated.
2. Make arrangements to cover liability in case of accident during the preparation and the move.
3. Perhaps involve patients in the direct planning of visits.
4. Give relatives/volunteers a written set of instructions for packing, unpacking, etc., and involve them in helping get patients settled.
5. Be sensitive to patient preferences for preparation, as it might be appropriate to move some patients earlier.

ALTERATIONS IN LIFE PATTERNS FOLLOWING NURSING HOME RELOCATION [1]

(Norman Bourestom, Ph.D.[2], Sandra Tars, Ph.D.[3] and Leon Pastalan, Ph.D.[4])

In recent years a number of studies have appeared concerning the effects of relocation on the aged and disabled. While many of these studies have reported deleterious effects usually in terms of higher than expected mortality rates (Aldrich & Mendkoff, 1963; Aleksandrowicz, 1961; Jasnau, 1967; Killian, 1970; Markus, Blenkner, Bloom & Downs, 1971; Shahinian, Goldfarb & Turner, 1968), other research has failed to substantiate these findings (Lawton & Yaffee, 1970; Miller & Lieberman, 1965; Ogren & Linn, 1971, 1971). In attempting to account for these variations Blenkner (1967), Lawton & Nahemow (1973), and others have called attention to methodological shortcomings and differences among the various studies, noting particularly differences in characteristics of the populations under study and the conditions under which the relocation was carried out, e.g., whether the move was voluntary or involuntary, and the degree of environmental change involved.

In addition to ambiguity concerning potential sources of variation in relocation effects, little attention has been paid to the survivors of relocation experiences. If involuntary relocation is conceptualized as an externally imposed stress inducing situation, its effects may be manifested among survivors in such well-known stress reactions as impaired physical health and various behavioral and interpersonal anomalies.

The data to be presented are partial findings from a two-year study in progress that bear on these issues. The study concerns a longitudinal assessment of elderly patients in two county medical care facilities in Michigan who were being involuntarily relocated. A third facility in Ohio provided a matched non-relocated control group.

In one of the Michigan facilities patients were to undergo a radical environmental change from the county facility to a new and much larger proprietary nursing home in a nearby community. For these patients the change was total and adjustments had to be made to a new staff, a new program, a new physical environment, and a new patient population. By contrast, patients in the other Michigan facility had many fewer adjustments to make. Although the move was also involuntary, these patients experienced a moderate change in their physical environment only, namely a move to a new building several hundred yards away. Staff and patient groups remained intact as did the nature and structure of their program. In the Ohio facility no environmental change was to occur.

These situations afforded an excellent opportunity to study relocation effects in terms of the degree of environmental change involved while holding constant one of the important conditions of relocation, i.e., the involuntariness of the moves.

METHOD

A total of 98 patients in the two relocated groups were matched for age, sex, length of hospitalization, and primary diagnosis with a like number in the control facility (Table 1). Although perfect pairings were not always possible each experimental group was highly similar to its control on these variables.

In addition, ratings of each patient's physical condition based upon evaluation of medical records by a consulting physician indicated that the experimental and control groups were highly comparable particularly along the dimensions of prognosis and vulnerability to death. In the radical change group patients had a median age of 76 and two-thirds of them were women. Almost half of the patients in this group had been hospitalized over 3 years and all of them had some form of cardiovascular, neurological, or musculoskeletal pathology that required long term care. On the other hand, patients in the moderate change group were older (median age 82), and there was a somewhat higher proportion of women in this group. In terms of pathology and length of hospitalization, however, the moderate change group was nearly identical to the radical change group.

Data were collected one month prior to relocation and at intervals of 1, 4, 8, and 12 months following relocation. On these occasions each patient was interviewed extensively and time sampled observations of his behavior were made using a measure developed by Ciarlo and Gottesman (1966). The interview probed for changes in the patient's evaluation of his health, perceived changes in relationships with staff members and other patients, and for self-reported changes in activity patterns. Observations of patient behavior were classified in terms of level of complexity ranging from low level behaviors, such as sitting and staring, to purposeful behavior such as actively working on a task, performing a chore, or interacting with others. On the basis of these classifications a single score was derived representing level of behavioral complexity for each patient in the study. All measures were intercorrelated and a subset of items which proved to be relatively independent of each other was selected from the larger set for the initial analysis.

Although data were collected for a one-year period following relocation, we will report here, with the exception of death rates, only those changes which occurred between the pre-move assessment and the one-month follow-up. The reason for this is mainly methodological in that mortality caused the sample size to decrease beyond the point of meaningful statistical analysis in the later stages of the research.

RESULTS

Perhaps the most dramatic finding was a strikingly higher mortality rate for the relocated groups than for their nonrelocated counterparts. As shown in Table 2, however, this effect was notably greater for the radical change group than for the moderate change group. Forty-three percent of the radical change group died in the six months preceding and the year following relocation

Footnotes at end of article.

as compared with a rate of 21% among their controls, a difference which was statistically significant. By contrast, the moderate change group experienced a 37% death rate as compared with a 26% rate among their controls, a difference which could have occurred by chance. In terms of mortality experience, therefore, it appears that the degree of environmental change involved in relocation is a potent factor influencing mortality rates.

Of interest also is the fact that death rates for the radical change group were highest in the three months preceding and three months following relocation (Table 3). The findings are consistent with those reported by Aldrich & Mendkoff (1963) and confirm their suggestion that anticipation of relocation has effects which are nearly as lethal as the relocation itself. On the other hand the moderate change group showed a different pattern. While death rates for this group were relatively high during the three months preceding relocation the peak in death rates occurred during the seven to nine-month period following relocation, much later than was the case in the radical change group.

As noted, the experiences of the survivors of both relocations as well as their control counterparts were assessed in terms of self-perceived changes in health status, changes in relationships with staff members and other patients, changes in activity patterns, and observed changes in levels of behavioral complexity. Of the 13 items which made up these content areas patients in the radical change group showed significant decline on four items and trends toward significant decline on four other items, whereas patients in the moderate change group showed significant decline on only one item. Likewise, as would be expected, the nonrelocated controls showed little change, declining significantly on only one item following the move.

In the radical change group the most marked shifts occurred in the way patients viewed their health and in their levels of psychosocial activity. Following relocation these patients became more pessimistic about the state of their health. Before the move 37% of the surviving sample felt that their health would be better in the future whereas only 21% were this optimistic following the move. Likewise, the percentage of patients who evaluated their current health condition in positive terms dropped from 65% pre-move to 28% post-move. In the moderate change group the only shift toward increasing pessimism was in the patient's self-perceived ability to care for himself in the future.

Following the move, patients in the radical change group also showed a marked decline in the number of psychosocial activities engaged in such an occupational therapy and recreational therapy whereas patients in the moderate change group showed little or no change in participation in these activities. Paralleling this decline in psychosocial activity was a corresponding increase in observed low level behavior in the radical change group as reflected in the observation weighted score.

Although the pre- and post-move differences did not reach statistical significance there was a trend for patients in the radical change group to be less intimate with staff and fellow patients following relocation, a trend which was not evident in the moderate change group. Following relocation, radical change patients were less likely to report that staff members were interested in them and were less likely to find other patients they trusted to talk over personal problems.

In contrast to the many faceted decline in the radical change group, non-relocated patients, like the moderate change group, experienced little change. Only one pre-post difference was statistically significant for these patients, and that was in terms of a reduced likelihood to report that there were staff whom they trusted to discuss personal problems.

DISCUSSION

The findings are consistent with the hypothesis that a weighty factor influencing the outcome of involuntary relocation among elderly patients is the degree of environmental change involved in the transfer. When environmental change is total involving changes in established routines, in the persons who provide care and service, and in the physical environment, higher than expected mortality rates can be anticipated as well as decrements in health outlook and behavioral functioning of survivors in the months immediately following the move. On the other hand when the environmental change is partial, involving a change in the physical environment only, the destructive effects are minimal in these areas and no greater than would be expected among elderly patients whose environments remain stable.

It was interesting to note the way in which the stress of relocation exacted its toll on the survivors in the radical change group. Following relocation, patients in this group grew increasingly pessimistic regarding the state of their health, withdraw from activities in which they had formerly engaged, exhibited lower levels of behavior, and were somewhat less inclined to perceive interest or trust on the part of those with whom they came into contact. Coleman, (1973) reviewing studies of stress, has pointed out that the sequela of stress may be manifested in such forms as hyperirritability, sleep disturbances, disturbed interpersonal relationships, and ego-defense oriented reactions including emotional insulation and detachment. For example, Bowlby's (1960) study of children's reactions to separation experiences involving hospitalization revealed that most children show an initial response of acute distress and crying followed by a phase of misery and apathy and, finally, a stage when the child loses interest and appears detached.

Similar reactions have been observed in newly blinded persons (Cholden, 1954), in reactions to both amputation and bereavement (Parkes, 1972), and in persons with terminal illness (Kubler-Ross, 1969). In many respects, the patterns of behavior adopted by the survivors in our radical change group resemble those seen in these other studies. The increased insulation and detachment from the world and activities of the institution which these survivors showed may have represented an ego-defense reaction against the possibility of future disruption and stress.

Our findings are also consistent with Rahe's studies on the relationship between extent of life crises and subsequent changes in health (Rahe, 1969). Rahe has shown that frequency and severity of illness increases in proportion to the extent of life change among Navy personnel on extended cruises. Paralleling these findings, our results show that more radical environmental changes are associated both with higher mortality rates and with more negative changes in life patterns. It would appear then that the sheer amount of forced change overloads the organism to such an extent that negative consequences can be anticipated.

The poorer adjustment of the survivors of the radical relocation in this study indicates that the destructive effects of environmental change are not limited to higher mortality rates. Effects which are more insidious in nature result in disabling life patterns for those who survive such moves. In a previous paper we described the results of two different programs of preparation for relocation. Those results indicated that proper planning and preparation were helpful in reducing fatalities and in facilitating adjustment. It is our contention that preparation programs should become mandatory policy in all situations which contemplate radical and involuntary relocation of elderly individuals.

Furthermore, follow-up programs after relocation should be implemented to further assist integrating the person in his new environment so as to prevent the development of disabling life patterns such as we have noted in this study.

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FOOTNOTES

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TABLE I.—MATCHING CHARACTERISTICS FOR RELOCATED AND CONTROL GROUPS

[In percent]

Characteristics	Radical change (N=61)	Radical change controls (N=61)	Moderate change (N=38)	Moderate change controls (N=38)
Sex:				
Male	36	36	26	26
Female	64	64	74	74
Age:				
Under 65	26	25	10	11
65 to 74 years	15	13	13	13
75 to 84 years	41	46	53	50
Over 85 years	18	16	24	26
Length of stay:				
Under 1 year	25	21	29	18
1 to 2 years	18	20	18	21
2 to 3 years	16	8	13	11
3 to 5 years	23	31	26	32
Over 5 years	18	20	13	18

TABLE II.—TOTAL MORTALITY[1]

Group	Total N	Percent survivors	Percent deaths
Radical change	61	57	43
Radical change controls	61	79	21
Moderate change	38	63	37
Moderate change controls	38	74	26

[1] Based on 6 months preceding and 12 months following relocation.

TABLE III.—TIME OF DEATH IN RELATION TO RELOCATION[1]

Group	Percent mortality					
	4 to 6 mo before move	1 to 3 mo before move	1 to 3 mo after move	4 to 6 mo after move	7 to 9 mo after move	10 to 12 mo after move
Radical change (N=61)	5	8	13	7	6	4
Radical change controls (N=61)	5	2	1	3	4	6
Moderate change (N=38)	0	11	2	8	13	3
Moderate change controls (N=38)	0	5	8	3	2	8

[1] For control subjects, mortality is computed for same months as relocated group.

RELOCATION RESEARCH AND SOCIAL POLICY

Does the ever-burgeoning research on relocation of the elderly and on the nature of institutional life offer us any collective wisdom that can lead to a rational and humane strategy of care for the aged in distress? How should we, on the basis of the empirical evidence that now exists in our field, construct a public policy that would cope with the plight of the very aged, especially those who have diminished capacities and increased need for service. Such service has all too often been construed as being possible only within the walls of institutional structures. Clearly there are theoretical alternatives to institutionalization, and ample demonstrations exist that portray the practical consequences of such theoretical alternatives. However, for many of the elderly, some form of congregate living becomes a practical necessity. What then? Here, the accumulation of empirical data over the years provides some important clues as well as some annoying inconsistencies. The absence of a clarion ring to this empirical accumulation is in large part a consequence of method problems. Most of the studies in this area are small-scale; their populations are not comparable, and they lack the elegance of random design and the power of quasi-experimental methods. Methods and measures do not overlap. Methodological elegance has all too frequently been called for to burden this audience with a detailed account of the various sins that have been committed. However, there are a few points relevant to method that vitiate much of this research when the purpose is better planning for human services.

Foremost on my list of near idiocies has been the over preoccupation with death rates. All too often investigators have been involved in what may appear to be a bizarre numbers game. If we manage to provide service to the very elderly by relocating them into institutional structures, and find we have not statistically increased the probability of death, our subjective experience is a sense of relief, nay, almost a sense of victory and a feeling that we have done our job well. To be sure, such data do prove that we have not been dramatically destructive, but to construct a rational policy of planning for the care of the elderly solely on the basis of minimizing the risk of mortality is narrow from a humanitarian perspective and also, I believe, scientifically suspect. Let me illustrate with an analogue from psychotherapy research. Psychotherapeutic literature is replete with literally hundreds of studies which examine the consequences of particular arrangements of psychotherapy on drop-out rates, as if determining what factors minimize such behavior will increase knowledge about what aids the psychotherapeutic process. Simply keeping people in therapy, or keeping the elderly alive, when our goal is to enhance service and the state of human beings in both therapy and service for the elderly, does not provide a meaningful approach to either problem.

A more useful orientation for studying the effects of relocation would be to ask the question whether the individual departs in major ways from his prior status quo, for instance, is his level of competence reduced? Such studies can perhaps more precisely assess the negative impact of moving the elderly into caretaking facilities. Yet again, while these studies tell us more about the reasons for negative effects, they still resemble the simple assessment of mortality rates as they are also open to the criticism that preventing failure does not necessarily insure success.

Most of my work on the effects of environmental change in the elderly, and that of my colleagues,* has involved assessments of behavioral, psychological, and physical departures from homeostasis. Taken together with the findings on mortality rates, these studies point the direction toward how to minimize risk, but unfortunately do not answer the question how to facilitate the well-being of the elderly. In general, examination of the literature suggests that with few exceptions, empirical studies of relocation have done a much better job of assessing and quantifying destructiveness. There is a rough correlation between studies demonstrating destructiveness and methodological sophistication and studies suggesting more positive outcomes and impressionistic data.

Does the work on relocation in any way suggest that resources be reorganized to maintain the elderly in their original environments? Four studies my colleagues and I have conducted over the past years covering more than 800 individuals—some on healthy elderly moving into affluent, high-care, sophisticated institutions; others involving sick, highly-debilitated human beings moving into circumstances that would delight a muckraker—have yielded roughly comparable findings. Namely, no matter what the condition of the individual, the nature of the environment, or the degree of sophisticated preparation, relocation entails a higher than acceptable risk to the large majority of those being moved. But this assertion of an empirical reality sheds little light on the problem of how to care for those aged, and suggests even less about the options available. It simply supports the position that relocation not be taken lightly as a social policy and that resources be organized to minimize the amount of institutionalization required for the elderly.

Having accepted that relocation is a major stress that radically affects many elderly, distinctions must be made that guide development of a strategy for minimizing risk. What can and should be taken to minimize the risk in entering congregate living situations? Let me again draw an analogue from the field of psychotherapy that perhaps illustrates one aspect of the state of our knowledge more poignantly than bald statistics. The best advice one can give to a beginning psychotherapist who asks the question "what can I do to enhance my therapeutic potential?" is to tell him to select his patients carefully. The patient's characteristics are the single most powerful predictor of successful outcome in psychotherapy. A similar finding is echoed in much of the research on relocation, that is, choose the right person to be relocated. Over and over again studies on relocation report findings that indicate physical status, cognitive ability, and certain other characteristics of personality are powerful predictors of the outcome of relocation. Combinations of such personal traits entered into multivariate statistical models frequently yield predictive equations that could substantially reduce the risk factor in relocation. Even if we abandon as unrealistic an intensive application of selection criteria based on physical and psychological status, some of the principles implied can help mitigate the risk of relocation. However, while the isolation of personal characteristics relevant to stress adaptation is not a matter of idle inquiry, increased precision in this area will not contribute significantly to the development of social policy on congregate care facilities. For it is often the very people who require supportive services that can empirically be shown to entail the greatest risk. This is another illustration, for an audience that probably does not need it, that empirical research often fails to help us with the nitty-gritty of policy issues.

Emphasis on selection criteria has never

* Sheldon Tobin, Roberta Marlowe and Darrell Slover.

been a popular policy among those who must deal with the everyday realities of caring for the elderly. There is no question, given both the accumulation of research findings and practitioner experience, that the transition from community to institution living is a major upheaval involving loss and requiring a redefinition of self. Long before research began to accumulate, the cost in human misery of entering institutions was evident to practitioners who developed a wide variety of ameliorative strategies. Psychological preparations such as helping the elderly make decisions about their needs, permitting them some influence on the outcome of their service requests, working with the family, developing programs of trial visits and the like, are among the many strategies practiced by enlightened social agencies.

Such a policy is correct not only in its estimation of the human misery involved in this transitional stage, but also with regard to the best available evidence on strategies for coping with threat. Appropriate cognitive appraisal of an impending threat has been shown in a wide variety of research contexts to be the crucial element for dealing adequately with stress. Yet despite the good sense of psychological preparation, and its firm footing in empirical research on threat, evidence from our research on relocation suggests that it is not a powerful tool in minimizing relocation risk. The reason is not poor practice, but rather incorrect strategy. Relocation is a risk to the individual not because of the symbolic meaning that such transitions imply, but because it entails radical changes in the life space of an individual that require new learning for adaptive purposes. In other words, the cure has been addressed to the wrong problem.

Evidence we can bring to bear on this issue is only indirect—well-controlled studies which compare preparation with no preparation are not available. Our own four relocation studies involve a large range of conditions from relocations which could be described as voluntary, and perhaps even desired, to those in which decision making was totally outside the control of the elderly, and the moves were decidedly unwelcome. Applying the same measurement devices to a variety of variables concerned with and directly related to the substance of preparation—appraisal working through, the nature of the positive and negative expectation, voluntary/involuntary, degree of control exercised by the individual, aspects of realistic appraisal, and so forth—has suggested that there were scant differences among the vastly different circumstances with regard to negative effects on the individuals involved in relocation. Furthermore, within any one study, such parameters did not substantially differentiate those who weathered the relocation successfully and those who showed decrements in behavioral, psychological, and physical functioning.

Research where investigators have suggested different outcomes for voluntary compared to involuntary relocations can be reinterpreted as yielding differences due to population characteristics rather than degree of voluntarism. Involuntary relocations most often involve individuals who are poor risks on the basis of person characteristics—health, cognitive status, and the like. In one of our studies closer examination of the voluntary/involuntary concept suggested some interesting findings. Voluntary commitment and participation in decision making is a myth shared by the social agency, the older person himself, and by his family. Being able to maintain a sense of personal integrity and control is essential to the maintenance of an adequate self-image, particularly for the older person. However, when elderly supposedly relocated voluntarily are studied through devices such as projective techniques, or are re-examined after relocation, their feelings about the positive nature of the step and the degree of control they exercised in the decisions are considerably altered. Our evidence suggests that the voluntary/involuntary variable is, at best, a crude and nonanalytic concept for looking closely at what happens in the transition from community to institutional living. (One cautionary note here: our findings around the expectations, attitudes, and anticipations with regard to impending institutionalization are not powerful outcome predictors except at one extreme—the practice of primitive defense mechanisms such as blatant denial portends future trouble). All this does not mean, however, the total abandonment of preparing the elderly as they move from independent community living to institutions, for such procedures can and do alleviate the human misery inherent in the transition process. What it cannot do is to radically alter the toll so frequently observed in relocation.

If selection is an elegant and precise tool of limited usefulness in the real world because those usually identified as high risk are the very ones who most need service, and if psychological preparation has great meaning to easing transition but not to reducing the risk factor in any absolute way, what has our research indicated as a practical and viable direction for policy to go? Clearly the maintenance of the elderly in supportive community environments which minimize relocation is the best strategy, but often it is not feasible. Next would be the construction of living arrangements which minimize the alteration of life space. Such a strategy accepts the fact of physical relocation, but takes cognizance of the important distinction between physical relocation and major alterations in lifestyle.

This could be accomplished by constructing environments with ranges of resources such that there is minimal disruption in lifestyle as the elderly make the transition from independent to dependent status, so change is gradual rather than abrupt. However, this ideal state may never be approximated in its full complement in the real world.

The area that is most amenable to intervention or manipulation is the institutional environment. The increasing number of gerontological symposia addressed to environment underscores its importance, but also the problems inherent in its development. We know precious little about the critical environmental conditions that affect the well-being of the elderly, and have only achieved a rudimentary beginning in developing an analytical model to examine environments. Institutional categorization system based on size, administrative arrangements, and definition of population served have proven to be sterile. "Experimental" interventions like those characteristic of mental hospital environmental studies may lead to the same fate that bedeviled such inquiry in psychiatric research. Although providing a major corrective to traditional treatment and alerting an insensitive profession to social psychological dimensions, such research did not yield useable guidelines for constructing facilitative environments. The Hawthorne effect appears to have been greater than the environmental variables that have been introduced. Research effort addressed to the complexities of micro-environments offer the most meaningful data base, but we must recognize that such undertakings are long and arduous, and will not, in the short run, yield useable information for action.

I can perhaps best serve the interests of this symposium by briefly recounting some of our findings that bear on the impact of environment on the elderly's well-being. We assessed relatively crude social/psychological aspects of enivronment at a macro level by using the power of contrasting environments. In our most recent study, the impact of 124 different environments was researched on 500 elderly mental hospital patients who were forcibly relocated to a large variety of nursing homes, board and care homes, and so forth. Comparing those who improved with those who became debilitated subsequent to the move, we found that both groups were identical prior to the move, but were relocated to quite different environments. In other words, the differences between these two outcomes could be principally accounted for by environmental rather than person differences.

Facilitative environments were those characterized by relatively high degrees of autonomy fostering, personalization of the patients, and community integration. Critical was that facilitative environments placed the locus of control much more in the hands of the patients, differentiated among them, and permitted them a modicum of privacy. Also, the boundaries between the institution and the larger community were more permeable than nonfacilitive environments. Facilitative environments reduced in an important way the degree of "total institutionalization." Equally important, they tended to be low on care giving and intolerant of deviancy. The findings suggest that, for the population studied, institutions that had relatively high expectational sets for behavior, that treated the elderly as adults with responsibilities, and that were not indulgent or permissive with regard to deviant behavior, presented a facilitative challenge. These findings call to mind some of the psychiatric milieu programs for the elderly and the mentally ill. Making demands in the context of a humanizing, respectful environment appears to be highly facilitative. Tender-loving-care when it implies infantilization seems to be not only nonfacilitative, but potentially destructive. In general, the call heard so frequently to make our institutions for the elderly less total institutions does find support in this research.

It is also important to point out that some environmental characteristics appeared to be not as crucial as might have been expected. For instance, the resource richness of the environment seemed to have little to do with facilitation. From a policy point of view, this may have some important implications—for the environmental changes we are talking about are, in essence, low cost. Resource richness implies much higher expenditures than do the kinds of changes in environment these studies indicate.

Caution must be taken, however, in translating these research findings into policy. The population studied were elderly who had, by and large, grown old in state hospitals, so to what extent these environmental characteristics would be facilitative to community populations moving into institutions is a moot point. Our research efforts have not yielded many environmental findings about community populations moving into institutions. Only a few elderly could be identified who were facilitated by such relocations. Taking individuals out of environments that were sterile and barren, and putting them into environments that were more humanizing and demanding, produced positive results. Yet, relocating individuals from community living into institutions may not follow the same environmental laws.

We have over the years in our studies on relocation impact, pursued the hypothesis that stress is dependent on the number of adaptational demands the new environment makes on the elderly. It should be emphasized here, however, that the problem of minimizing life-space alterations is not equivalent to the simple maintenance of the status quo of a person's physical environment. In the aforementioned study, we found that environments that were low in discrepancy (that made few demands) tended to maintain the status quo. Both individuals who improved and who deteriorated were in "discrepant" environments, but

environments whose areas of discrepancy were different. For me, the results of our studies raised more questions than they answered. In some of our studies where relatively adequate functioning individuals were forced to make numerous adaptations to entirely new life-styles, highly discrepant environments were destructive milieus. Where as state hospital patients coming from barren, sterile situations to circumstances that offered both a challenge and a degree of self-control flourished. We have indications that nondestructiveness and perhaps even facilitation could be maximized by person/environment fit—an ideal model that is reflected by some current research, but that is certainly not sufficiently developed for direct action.

In summary, our field does not as yet offer the critical mass of empirical knowledge that would easily lead to policy. The bits and pieces that currently describe the state of our knowledge the different criteria investigators have used to assess impact ranging from personally reported satisfaction to increased social interaction, and our own work which has assessed outcome in terms of functioning, do not make building a data base easy. Finally, asking the question what factors can be generated in an environment that make it nondestructive may be a different question than asking what characteristics in an environment make it facilitative. Does the contrast in environments where aged come from sterile, non-stimulating milieus mirror the same environmental conditions as when the aged enter institutions from the high-stimulus environments characteristic of community living? There is no reason either theoretically or empirically to assume that these form a continuum. We must be cautious that when we find environment conditions that are nondestructive that we do not interpret them as necessarily leading to maximally facilitative environments.

Death and Medical Hospitalization After Involuntary Transfer in Geriatric NP Patients

(By Charles C. Watson, Ph. D., St. Cloud, Minn.)

In recent years a controversy has developed over the advisability of forcing neuropsychiatric hospital geriatric patients to move to one setting from another. Many writers—and most program-innovators—would maintain that moves within hospitals or between hospitals and nursing homes are essential to provide optimal service to patients and do not constitute a significant health hazard. Others note that geriatric patients tend to be inflexible and weak, and that they commonly suffer from major medical problems. They fear that moving patients imposes stresses which may precipitate the breakdowns of fragile anatomical systems, resulting in serious illness or death.

Some objective research on the subject has appeared. For example, Kral, Grad and Berenson[1] have documented the existence of exaggerated stress reactions in geriatric patients subjected to relocation. Bourestrom[2,3] studied mortality rates in a cohort of county home patients who were involuntarily transferred to a new facility when the original building was condemned. The patients were moved to a new building 15 miles from the county home, staffed by unfamiliar personnel. He found mortality rate was 60% higher in the year of the transfer than it had been, on the average, over the five years immediately preceding. He also noted that mortality rate in the 18 months following the move was roughly triple that for a matched control sample from a similar county home whose patients were not moved. However, at a third home where patients were transferred to a new building on the same property and the original staff was maintained, the mortality rate increase was small and nonsignificant. Similar findings in other nursing homes have been described by Aldrich and Mendkoff[4] and Markus *et al.*[5] Additionally, Killian[6] and Jasnau[7] noted that the mass transfer of geriatric patients from the Stockton (California) and Milledgeville (Georgia) State Hospitals and other hospitals and extramural facilities led to major increases in mortality. Finally, Whittier and Williams[8] have noted that the death rate for newly-admitted geriatric patients is much higher in the first month of psychiatric hospitalization than in subsequent months.

The potential ramifications of those findings are major. Transfer is a commonplace occurrence in the treatment of geriatric patients. Moreover, geriatric patients are frequently moved in wholesale lots as mental hospitals are reorganized or as hospital philosophy changes. In recent years, for example, the view that extended hospitalization is undesirable has gained considerable support and geriatric wards have been staffed with social workers who have placed large numbers of elderly patients in nursing homes, boarding houses and other extramural institutions. Further evaluation of the circumstances under which involuntary transfer may be dangerous is badly needed.

In the fall of 1971, the St. Cloud Veterans Administration Hospital, a 1020-bed psychiatric facility, reorganized its geriatrics service. The service consisted of some 400 patients distributed among three buildings. Up to that point, the patient populations on the three buildings had been roughly similar, with equal numbers of total-, medium-, and low-care patients housed on each.

The major purpose of the reorganization was to stratify the patients so that those requiring relatively little care and possessing a substantial amount of discharge potential would be housed on a single building where they could be accorded special Recreation Therapy and Social Work services. Patients requiring more care and having less rehabilitative potential were placed on other buildings with more nursing staff but fewer Recreation and Social Service staff. In order to accomplish the reorganization, 71—roughly 20%—of the patients were transferred from one building to another. Their transfers provided an opportunity for an additional assessment of the hypothesis that transfer—and especially mass involuntary transfer—tends to increase the incidence of illness and death among geriatric psychiatric patients.

The purpose of this study, then, was to evaluate the view that mass transfers tend to increase death and illness rates by comparing the incidences of these occurrences in the hospital's geriatric section immediately before and after reorganization to their incidences during periods several months prior and after.

METHOD

Cohorts. Three cohorts of patients were evaluated in the study. They consisted of (1) a *pre-reorganization* sample which consisted of all 403 patients on the geriatric buildings on May 6, 1971 (5 months before reorganization), (2) a *reorganization* period cohort, consisting of those 385 patients on the buildings September 6, 1971 (one month before reorganization), and (3) a *post-reorganization* sample (all 378 patients on the geriatric buildings as of January 6, 1972—three months after reorganization). Most subjects appeared in all three cohorts. Because of this substantial overlap, traditional statistical tests for differences between cohorts were not feasible.

Subjects. As has been noted, the pre-reorganization, reorganization and post-reorganization cohorts consisted of 403, 385 and 378 *Ss* each, all males. No substantial differences between the mean age or length of total previous neuropsychiatric hospitalization of the cohorts was noted. The mean ages (wth standard deviations) were 68.6 (S=12.2), 69.0 (S=12.2) and 69.6 (S=13.4) years respectively for the prereorganization, reorganization and postreorganization cohorts. Mean total years of previous psychiatric hospitalization were 11.1 (S=14.8), 11.3 (S=14.9) and 10.8 (S=14.7) years respectively. The mean age and total length of hospitalizations of the patients actually transferred were somewhat higher than the figures for the entire sample (mean age=72.3, S=10.2; mean length of hospitalization=11.6 years, S=15.0).

Roughly half of the population were aged individuals with primary diagnoses inferring brain damage, largely as a result of arteriosclerosis or senility. Another 30% were younger (under 60) men with brain-damage resulting from trauma, Huntington's Chorea, stroke and other conditions not necessarily associated with aging. The remaining 20% were men over 60 with a primary diagnosis of schizophrenia; however, the advanced age of this subset suggests that organic brain damage probably played a significant role in their infirmities.

Evaluation Periods. Both short- (four month) and long-term (12 month) followup evaluations were made. The short-term evaluations covered four-month spans set up to encompass the period of presumed maximal physical/emotional stress in the "reorganization" cohort—the one-month immediately prior to rearrangement and the first three months after conversion.

The long-term followups encompassed 12 months, also structured so that the shift date in the reorganization cohort occurred one month into the period. The 12-month evaluations had a methodological advantage over the short-term evaluations in that they were not contaminated by seasonal factors, which, considering the severity of Minnesota winters, could have been expected to have a substantial impact on health.

Measurements. The criteria used in the study were incidence and length of confinement to strictly medical wards, and incidence of death during the evaluation periods.

RESULTS

Four-month followup. The short-term followup data run counter to the view that the reorganization increased probability of death or illness among the patients. The incidence of medical hospitalization during the four-month followup periods for the pre-organization, reorganization and post-reorganization cohorts were 6.95%, 7.79% and 10.32% respectively. Four-month death rates for the three cohorts followed the same trends; they were 4.47%, 6.75% and 7.14% respectively. The data, then, did not support the view that short-term illness or death rates are adversely affected by reorganizations of this sort. Indeed, both illness and death rate seemed to be affected more by seasonal changes; the pre-reorganization period where death and illness rates were lowest covered the summer of 1971 while the reorganization and post-reorganization periods included the fall/early winter and late winter/spring respectively.

Anticipatory Death/Illness. It has been suggested that the presence of an impending move tends to place stress on the geriatric patients' physical and emotional systems, increasing the risk of illness/death immediately *prior* to a move. In a search for anticipatory effects, the death and illness rates of the three cohorts were evaluated over the first month of their respective periods. For the reorganization cohort, this period covered the month immediately prior to the conversion.

The data did not seem to indicate that a substantial anticipatory effect was operating. Hospitalization and death rates for the month immediately preceding reorganiza-

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Footnotes at end of article.

tion were 1.82% and 1.56% respectively. The rates for the 30 days which began four months early (May 1971) were both .99 while those for the 30 days which began four months later were 5.03 and 1.85%. Apparently anticipation of reorganization did not have a noteworthy deleterious effect on health in this case.

Immediate post-reorganization rates. An evaluation covering the first two months after reorganization (and the corresponding sections in the control periods) was also made. Hospitalization rates for the pre-reorganization, reorganization and post-conversion periods were 4.95%, 4.14% and 6.35% respectively. The corresponding mortality rates were 1.98%, 3.37% and 3.17%. It appears that neither mortality for illness rates during the period immediately after the shift were affected substantially by the reorganization. While the mortality figures were slightly higher than their control counterparts, the illness rates were slightly lower.

Twelve-month followup. As has been noted above, the 12-month data may be particularly useful because they are relatively free of seasonal influences. Thus they may provide more useful data than do the anticipatory, three-month, and four-month comparisons of the three cohorts.

The percentages of the pre-reorganization, reorganization and post-reorganization cohorts who were hospitalized on medical wards during the ensuing 12 months were 19.9%, 16.6% and 19.3% respectively. The death rates were 14.6%, 15.6% and 16.9% respectively. Again, neither set of data support the hypothesis that the reorganization had a deleterious effect on health. In fact, the one cohort (i.e. the post-reorganization group) who did not subsequently experience reorganization had a slightly *higher* 12-month death rate than those which did, while its medical-ward hospitalization rate lay between those of the two groups subsequently involved in reorganization.

COMMENT

The findings indicate that the involuntary transfer of geriatric patients will not necessarily increase the incidence of physical illness or death. While massive involuntary transfers can lead to increases in death/illness rates, the present study indicates that such consequences are avoidable, at least in populations similar to ours.

The differences between the present study and the alarming findings cited earlier in this paper deserve comment. The patients described in the studies cited earlier were generally involved in interfacility transfers rather than an intra-institutional one. In most, all the patients in a ward or in a home were moved while only one-fifth of those in our own wards were transferred. Furthermore, our transfers moved to wards whose architecture, furniture, staff attitudes, and daily routine varied little from those of the settings they had left; moreover, many of them continued to attend the same Rehabilitative Medicine assignments to which they had become accustomed before transfer. It is also possible, of course, that the transferred patients in the present study could have been physically stronger than those moved in earlier projects.

The results complement Bourestrom's [4] report in which he notes that the mortality rate varied markedly with the amount of pre-transfer orientation accorded the patients. While one group of his patients who had received a thorough orientation program experienced a mortality rate of 27%, the rate for a similar group who had received a relatively perfunctory orientation was nearly twice as high (52%). Taken in conjunction with one another, the several studies indicate that mortality/illness in involuntary transfer are proportional to the amount of unfamiliarity associated with relocation, and that when unfamiliarity is minimized, it may be possible to almost totally eliminate the special risk related to it. Thus it would seem that gradualism is necessary in the involuntary transfer of geriatrics, and that, where large numbers must be transferred, they should probably be moved in small groups over a long period of time with considerable attention paid to reorientation. Such steps should minimize—or perhaps even eliminate—the chances of increased death or illness rates.

NOTE

Reprint requests to Research Service, Veterans Administration Hospital, St. Cloud, Minn 56301 (Dr. Watson).

ACKNOWLEDGEMENT

The author is indebted to Helen Buerkle, Mark Schmitt, Alice Zimmerman and Teresa Kucala for their technical and clerical contributions to this paper, and to Norman Bourestrom for his suggestions on the manuscript.

FOOTNOTES

[1] Kral VA, Grad B, Berenson J: Stress reactions resulting from relocation of an aged population. *Canad Psychiatr* 13:201–209, 1968.

[2] Bourestrom NC: *Relocation Report 2: Death and Survival.* Ann Arbor: Institute of Gerontology (University of Michigan and Wayne State University), 1972.

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[5] Markus E, Blenkner M, Bloom M, Downs T: Relocation stress and the aged. *Interdiscipl Topics Geront* 7:60–71, 1970.

[6] Killian EC: Effect of geriatric transfers on mortality rates. *Social Work* 15:19–26, 1970.

[7] Jasnau KF: Individualized versus mass transfer of nonpsychiatric geriatric patients from mental hospitals to nursing homes, with special reference to death rate. *Am Geriat Soc* 15:280–284, 1967.

[8] Whittier, JR, Williams D: Coincidence and constancy of mortality figures for aged psychotic patients admitted to state hospitals. *J Nerv Ment Dis* 124:618–620, 1956.

EXHIBIT B

POTENTIAL EFFECTS OF SECTION 1905(F) OF THE SOCIAL SECURITY ACT ON SKILLED NURSING FACILITY PATIENTS

Section 247 of P.L. 92–603, the Social Security Amendments of 1972, introduced into title XIX (Medicaid) a statutory definition of covered skilled nursing facility services identical in wording to the definition of such services in title XVIII (Medicare).

The problems which may be foreseen as a result of this amendment flow not so much from the wording of the definition as from the establishment as a working principle the idea that the characteristics and needs of the typical Medicare, post-hospital convalescent patient are the same as the characteristics and needs of the typical long-term, chronically ill, aged patient in Medicaid.

For the past several years the Medicare program has been refining and institutionalizing in daily practice a quite narrow application, for Medicare coverage purposes, of essentially this same definition. In Medicaid, States have developed and applied policies for covering skilled nursing home care which have been conditioned and shaped to some extent by the observed needs of aged chronically ill patients which State and local agencies daily confronted. The statutory and regulatory provisions under title XIX have allowed States some flexibility in coverage policies.

The result has been the development of two quite different patterns of practice in Medicare and Medicaid, one suited to the administration of a narrow, specialized and short-term insurance benefit and the other formed around the chronically and multiply diseased individual whose care requirements are influenced by the interaction of social and psychological factors with the consequences of advanced age and frailty as well as with the medical procedures that may be prescribed at a given time.

The legislation of a common definition of skilled nursing facility care and the specification of the Medicare wording as that common definition is certain to be widely interpreted, in HEW and in the States, as a mandate to abandon the pattern of practice in Medicaid developed in serving the long-term aged patient and to substitute the practices developed for the administration of the specialized Medicare benefit. The current pressures for the reduction of program expenditures will provide impetus and a further rationale for that interpretation.

There are approximately 315,000 Medicaid patients in skilled nursing facilities who have been admitted under the more flexible criteria developed and applied by State agencies. On the basis of reports from a few States which have applied the Medicare criteria in Medicaid, it is possible to roughly estimate that literal application of medicare coverage criteria in all States would result in reclassification of a large percentage, perhaps as high as 75 to 80 percent, of present Medicaid skilled nursing facility patients. In nearly all cases they would be reclassified as intermediate care patients.

Not all of these reclassified patients would be physically transferred to another facility since some skilled nursing facilities would convert to intermediate care facilities and others would be willing to retain some of the reclassified patients at the reduced rate; however, large numbers of physical transfers undoubtedly would occur.

Thus, two major problems would be generated by full implementation of the new statutory definition in title XIX:

1. Many patients of very advanced years and frailty and having considerable illness and disability, although not conforming to the Medicare coverage criteria, would be assigned to a type of care in which Federal and State standards are not designed for the needs of such patients.

2. Many reclassified patients will have to be physically transferred to another facility to continue payments for their care. Sudden and marked changes in environment are extremely difficult for the aged institutionalized patient. "Transfer shock" is a phenomenon well recognized in the field. Although studies of this phenomenon do not yet enable us to predict with precision the increased incidence of morbidity and mortality, if we assume that 100,000 of the estimated 235,000 patients reclassified would have to be physically transferred, it is not alarmist (indeed, it is conservative) to estimate that almost all would suffer some personal stress and that perhaps 10,000 patients would suffer increased illness and disability or death.

S. 3503 contains three major provisions addressed to these problems:

1. A requirement is added to State title XIX plans that determinations of the need for continued care in a facility (affecting persons who have been inpatients of such facility for more than four months) which would result in discharge or transfer from the facility may be made only on the basis that such discharge or transfer is in the interest of the patient. Thus, the flexibility to

move patients for positive patient care reasons would be preserved and the shuffling about of patients for purely fiscal reasons or because of the arbitrary application of new rules would be eliminated.

2. Where transfers are unavoidable, transfer shock effects can be reduced in many cases by careful psychological preparation of the patient. A section of S. 3503 provides for such pretransfer services.

3. A third major provision in S. 3503 adds language to the definition of skilled nursing facility services, now identical to the Medicare coverage definition, which recognizes that the conditions of some aged, chronically ill individuals, while they do not conform to the criteria for Medicare post-hospital convalescent coverage, nevertheless are best served in a skilled nursing facility. The section would require HEW to establish criteria for such cases.

EXHIBIT C

U.S. SENATE,
SELECT COMMITTEE ON NUTRITION
AND HUMAN NEEDS,
Washington, D.C., July 16, 1974.

Hon. CASPAR WEINBERGER,
Secretary, Department of Health, Education, and Welfare, Washington, D.C.

DEAR MR. SECRETARY: I am writing you about a matter which could cost the lives of 10,000 senior citizens. I am referring to implementation of Section 247 of P.L. 92-603. As you know, the intent of this section of the law was to provide for a common set of definitions of levels of care for long-term care facilities for both Medicare and Medicaid. It turns out that the application of the Medicare definition of skilled nursing care adopted for these programs will likely cause the reclassification of tens of thousands of Medicaid patients as intermediate care patients. It has been estimated by the National Association of Directors of Health Facility Licensure and Certification Programs that of 315,000 or so Medicaid patients now in skilled nursing facilities as many as 250,000 could be reclassified and as many as 100,000 may have to be physically relocated. And, based on studies done at the University of Michigan and elsewhere, it is not unreasonable to suggest that all of these persons may suffer physical distress and as many as 10,000 may become physically ill or die.

I do not believe it was the intent of the Congress either to precipitate mass relocations in the interest of economy or to limit drastically the grounds for classification as a skilled nursing care patient under Medicaid. At the very least we cannot go forward with a law which we know can result in skyrocketing mortality and morbidity rates unless and until we are assured that the elderly will receive the supporting services proven to be effective in minimizing the negative effects of involuntary transfer.

I request that you delay the publication of final regulations implementing this section until the Congress has a chance to evaluate the situation. I request, in addition, that you use your influence with the States to dissuade them from prematurely implementing policies with potentially devastating consequences for elderly nursing home residents in anticipation of the publication of these regulations. Finally, I request that you support my bill, S. 3503, which will deal on a permanent basis with the problem of involuntary transfers. I enclose a copy of that bill for your convenience.

Sincerely,

CHARLES H. PERCY,
U.S. Senator.

U.S. SENATE,
SELECT COMMITTEE ON
NUTRITION AND HUMAN NEEDS,
Washington, D.C., June 24, 1974

Hon. RUSSELL B. LONG,
Chairman, Senate Finance Committee, Washington, D.C.

DEAR RUSSELL: On May 16, I introduced S. 3503, a bill designed to deal with the very real and pressing problem of involuntary transfers of nursing home patients. The response I have received to this legislation from around the country suggests that persons professionally involved in the delivery of long-term care as well as laymen concerned about the elderly recognize the need for immediate action. While I recognize the extremely heavy agenda facing your Committee, I nonetheless urge you to make S. 3503 a priority item for action.

My concern in general is with the unfortunate effects of the relocation of the aged nursing home patients no matter what the reason for relocation or transfer. Studies done by scholars at the University of Michigan and elsewhere indicate that mortality and morbidity rates among persons who are relocated against their will skyrocket unless they are properly prepared and assisted for the transfer. If we are indeed interested in the physical and psychological well being of the aged nursing home resident and not just warehousing him or her while waiting for death to relieve us of a burden, then we must take steps to assure that the operation of Federal law minimizes the need for involuntary relocation or, where unavoidable, that the law requires proper preparation of the patient for the move.

My more immediate concern, however, is with the implementation of a provision of H.R. 1 (P.L. 92-603) which seems likely to result (and in some instances is already resulting in) the relocation of as many as 600,000 nursing home residents. The intent of Section 247 of P.L. 92-603 was to provide for a common set of definitions of levels of care for long-term care facilities for both Medicare and Medicaid programs. I supported this move; indeed, I introduced a bill in the 92nd Congress which was one of the sources of this section of the law. But no one foresaw at the time that the application of the definition of skilled nursing care adopted for both programs would cause tens of thousands of elderly Medicaid patients to be reclassified as intermediate care patients or even discharged. I do not believe that it was our intent either to precipitate mass relocations in the interest of economy or to limit drastically the grounds for classification as a skilled nursing care patient under Medicaid. According to the National Association of State Health Facility Licensure and Certification Program Director, the application of this Section of the law could result in 100,000 patients being physically transferred and thus "perhaps 10,000 patients would suffer increased illness and disability or death."

I do not think we can tolerate the possibility of even a single death as the result of the application of a Federal statute. That is why I have introduced S. 3503 and why I am requesting that you treat it as a priority item. We must require that transfers be made only when it is determined that they are in the interest of the patient. We must require that patients be informed about impending transfers and be given the right to appeal the determination. We must require that patients be properly prepared for relocation so as to minimize to the extent possible the negative effects of the move. But, more importantly, we must change the definition of skilled nursing care to include recognition of factors other than strictly medical ones in determining need for their level of care and give the Secretary more flexible means to see to it that the states are fully and completely implementing the state plans.

I am writing also to Senator Bennett to urge hearings on this bill. I hope it will be possible to arrange them without undue delay.

Sincerely,

CHARLES H. PERCY,
U.S. Senator.

U.S. SENATE,
SELECT COMMITTEE ON NUTRITION
AND HUMAN NEEDS,
Washington, D.C., June 24, 1974.

Hon. WALLACE F. BENNETT,
Banking Minority Member, Senate Finance Committee, Washington, D.C.

DEAR WALLACE: On May 16, I introduced S. 3503, a bill designed to deal with the very real and pressing problem of involuntary transfers of nursing home patients. The response I have received to this legislation from around the country suggests that persons professionally involved in the delivery of long-term care as well as laymen concerned about the elderly recognize the need for immediate action. While I recognize the extremely heavy agenda facing your Committee, I nonetheless urge you to make S. 3503 a priority item for action.

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interest of the patient. We must require that patients be informed about impending transfers and be given the right to appeal the determination. We must require that patients be properly prepared for relocations so as to minimize to the extent possible the negative effects of the move. But more importantly we must change the definition of skilled nursing care to include recognition of factors other than strictly medical ones in determining need for the level of care and give the Secretary more flexible means to see to it that the states are fully and completely implementing their state plans.

I am writing also to Senator Long to urge hearings on this bill. I hope it will be possible to arrange them without undue delay.

Sincerely

CHARLES H. PERCY,
U.S. Senator.

EXHIBIT D

AMERICAN ASSOCIATION OF
RETIRED PERSONS,
NATIONAL RETIRED TEACHERS ASSOCIATION,
Washington, D.C., June 5, 1974.

HON. RUSSELL B. LONG,
Chairman, Senate Committee on Finance, Washington, D.C.

DEAR CHAIRMAN LONG: Knowing of your deep personal interest in upgrading the quality of nursing home care, we hope that, despite the heavy schedule of your Committee, you will find time to consider two urgently needed amendments to the Medicare and Medicaid programs suggested in S 3503 and S 3507, both introduced by Senator Percy.

Our Associations supported Public Law 92-603 because it contained many needed reforms in the programs of the Social Security Administration, offering far-reaching and long overdue improvements and expansions in Medicare and Medicaid. However, as we pointed out in testimony before the Committee, this important legislation also contained within its provisions the seeds for devastating tragedy. Our greatest fear appears as reality in the narrow interpretation of skilled nursing facility which is contained in promulgated regulations issued by the Department of Health, Education and Welfare. It is for this reason we urge immediate committee action on S 3503. If the Committee does not act to prevent the implementation of the proposed regulations with respect to utilization review for skilled nursing facilities and intermediate care facilities and those proposed with respect to Section 247 "levels of care" we forecast massive reclassification of patients from skilled nursing facilities to facilities incapable of rendering proper care to meet the needs of the chronically ill, long-term care patient.

We cannot emphasize too strongly that the services provided in skilled nursing facilities and in intermediate care facilities, as well as the kind of patient care contemplated under the law for treatment in a skilled nursing facility, are so interrelated that the need to examine the regulations for these three categories simultaneously—with a view toward their effects upon each other—is a must.

We believe that S 3503 provides a realistic approach to making skilled nursing care under Title XVIII and Title XIX a workable definition, as provided for in Section 246 and Section 247 of Public Law 92-603, while minimizing the human impact of pain and suffering which predictably will accompany the transition to a unified system under close scrutiny to avoid improper utilization of resources.

Support for the stance which we advocate comes from those who realize that the effect of establishing a common definition for skilled nursing care under the Medicare and Medicaid programs is to merge two divergent patient populations who will then have to compete for care. Those patients receiving skilled nursing benefits under the Medicare program are in need of medical attention as part of the acute stage of their illness. To this patient grouping, skilled nursing care is part of the care regimen needed to recover from their ailment. Contrast the above Title XVIII beneficiary with the chronically ill, long-term patient reimbursed under Medicaid. In this patient class, often the skilled nursing care is the last stage of a prolonged illness. Recipients of Medicaid skilled nursing care are seldom on the road to recovery, although their condition might stabilize sufficently to disqualify them for this level of care if the anticipated narrow interpretation of skilled nursing care is allowed to stand.

S 3503 offers an alternative to the hardline construction of skilled nursing care which is being written by the Department of Health, Education and Welfare. First, it humanizes the determining factors of skilled nursing care by amending Section 1905(f) of the Social Security Act to provide recognition of factors other than strictly medical ones in determining the need for such care. This is the first step in warding off strict construction of Section 247 (P.L. 92-603) which defines the levels of care. Second, S 3503 provides an organized plan to implement patient transfer when necessary. These provisions require that no patient be transferred or discharged to a facility without a medical determination that his needs can be met in that facility and requires that steps be taken to assure that the patient or resident is properly prepared for discharge or transfer and will receive appropriate care in the facility to which he is transferred. Third, S 3503 provides for patient knowledge, requiring that a patient or resident be informed of his pending discharge or transfer at least 14 days in advance and that he be given the right to a hearing on the transfer or discharge.

Mr. Chairman, the issues which S 3503 addresses are real issues. Dr. George Warner of the New York Department of Health has estimated that the reclassification resulting from the narrow construction of skilled nursing care could affect as many as 600,000 nursing home patients—nearly two-thirds of the nursing home population. Dr. Warner further states, "We can envision the problems posed to State utilization review agencies and to the intermediaries of Medicare and Medicaid in trying to tailor their payments to a continuous shifting of population from one category of care to another." Research into patient reactions to relocation, conducted by the Institute of Gerontology, University of Michigan-Wayne State University, drew this conclusion: "The anticipation of relocation and the disorganization during and immediately after a move are especially lethal to elderly patients." Thus, we are speaking of a major patient shift and a shift which may have important health consequences to older Americans residing in nursing facilities.

Taken together with Section 207, which mandates differentials of reimbursement between skilled nursing facilities and intermediate care facilities on a statewide basis, there is tremendous pressure on the states to forcibly transfer thousands of individuals to a lesser level of care regardless of the human suffering which might accompany such a transfer. The following is an excerpt of a critical situation reported to our organization by the Steering Committee on Aging of Jefferson County, New York:

"In January of this year the Jefferson County Department of Social Services implemented, several weeks prematurely, a set of State Medicaid regulations requiring the transfer to other geographical areas of acute care patients awaiting alternative care placement, when suitable arrangements could not be made for them near their homes."

The report further points out:

"On November 26, 1973, the New York State Commissioner of Social Services filed an amendment to Section 505.4, Chapter II, Title 18, New York Code of Rules and Regulations. This amendment has served as the basis for the State's further actions in implementing this practice of involuntary transfer.

"A State Department of Social Services Administrative Letter, 73 PWD-179, had already been published on November 7th, detailing procedures for this Hospital Inpatient Utilization Review Program and announcing implementation beginning on February 1, 1974. This letter did not cite the Code of Federal Regulations for its authority. It deferred instead directly to the Federal statute, P.L. 92-603, Sections 207 and 237, leaving New York State in the position of having interpreted sections of the Federal statute before the responsible Federal administrative agency, the Department of Health, Education and Welfare, had published even proposed rules for public comment."

This case in New York is particularly horrifying, inasmuch as the proposed regulations promulgated by the Department of Health, Education and Welfare were not released until January 9, 1974, and these proposed rules are still under vigorous discussion within the Department and have not yet been adopted. Meanwhile, numerous patients are being literally forced out of their medical facilities and transferred miles away from their homes under state regulations which may or may not conform to federal standards. These determinations, we might add, run counter to the expressed views of your Committee in its report accompanying Public Law 92-603 (Senate Report 92-1230, pages 282-283).

Turning our attention to the second major issue of immediate importance addressed by the legislation introduced by Senator Percy, our Associations press upon you the need for speedy passage of S. 3507 making permanent federal reimbursement for the costs of state surveys and inspections of nursing homes. Speaking on behalf of the consumer of long-term care services, our Associations believe the developments of the past two years mandate a continued federal involvement. We have witnessed, and are still witnessing, the rewriting of standards which the facilities must meet. We believe that now is the time to do all that is possible to insure adequate attention to the enforcement of the new regulations. To withdraw federal support at this critical moment, especially given the flexibility of the new regulations which leave a great deal of discretion to the inspection teams, would be to default upon the national commitment to upgrade nursing facilities. The alarming statistics cited in the recent surveys conducted by the Department of Health, Education and Welfare on the number of nursing facilities which have deficiencies should be an additional incentive for continued federal underwriting of the inspection process. Without action at this time, the temporary provisions of Public Law 92-603 will expire on June 30, 1974.

We limit our request for corrective legislation to those amendments which our Associations identify as most immediate in hopes that the Committee will consider at a future date broader remedial steps such as those contained in the Comprehensive Medicare Reform Acts of 1974 (S. 3154), introduced by Senator Ribicoff, and other important bills pending before the Committee.

Needless to say, we appreciate this opportunity to again appeal for your support and action on legislation of vital interest to older Americans.

Sincerely,

CYRIL F. BRICKFIELD,
Legislative Counsel.

AMERICAN ASSOCIATION OF HOMES FOR THE AGING,
Washington, D.C., July 18, 1974.

Hon. CHARLES H. PERCY,
The U.S. Senate,
Washington, D.C.

DEAR SENATOR PERCY: Since the passage of Public Law 92-603, the Social Security Amendments of 1972, Section 247 which mandates a common definition of skilled care for Medicare and Medicaid has been a source of great concern to the American Association of Homes for the Aging.

Being the national association representing non-profit, philanthropic, and church-sponsored skilled care and health-related institutions, as well as residentially-oriented facilities, we are vitally interested in the health care needs of the elderly and such health-related factors as social and psychological needs which very often are important elements in assessing an individual's need for long term care services.

Section 247 poses potentially serious problems, for the rationale of this provision is erroneously based on the notion that the needs and characteristics of the Medicare patient are identical to the needs and characteristics of the typical Medicaid patient. It is inappropriate to apply Medicare rules to Medicaid patients as the two programs cover patients with differing characteristics. It is estimated that 75 to 85 percent of present Medicaid skilled nursing facility (SNF) patients may be reclassified downwards and transferred to intermediate care facilities (ICF's).

In attempting to rectify these deleterious effects of Section 247, the American Association of Homes for the Aging wishes to support the initiative you have taken in introducing bill S. 3503.

This measure is a most responsible and responsive piece of legislation, for it would broaden the Medicaid definition of "skilled nursing facility services" in such a way as to prevent wholesale patient reclassification and transferral. In addition, under S. 3503 the criteria for eligibility for SNF care would accord proper recognition to the interaction of personal, health, and social considerations which cause such care to be needed.

At this time, on behalf of the American Association of Homes for the Aging, I wish to express to you our Association's wholehearted support for S. 3503.

With best wishes.

Sincerely,

RICHARD A. SHORT,
President.

LOURDES RESIDENCE,
West Palm Beach, Fla., June 4, 1974.

Senator CHARLES H. PERCY,
Dirksen Building,
Washington, D.C.

DEAR SENATOR PERCY: I have been working with the elderly since 1949 and certainly appreciate your efforts under Bill S. 3503.

Much time and money is being expended on Medicaid patients in doing utilization review, but at the present time no realistic attitude is being taken. The average long term care patient cannot be discharged, as he has no place to go. Our average age on admission is 84.

Our Community has over 31 homes for the aged with large sections for nursing care. We have St. Patrick's Residence in Joliet, Illinois.

I am a native of Chicago and presently administrator of a Home for the Aged with a small skilled nursing section. We are in the process of fund raising so that our nursing section can be expanded.

Thank you for your efforts on behalf of the elderly poor.

Sincerely yours,

Sister M. JOSEPH MAYNARD, O. CARM.

MADONNA TOWERS, *June 4, 1974.*

Senator CHARLES H. PERCY,
Russell Office Building,
Washington, D.C.

MY DEAR SENATOR PERCY: I wish to offer my support to your legislation, S. 3503, which would broaden the Medicaid definition of "skilled nursing facility services" in such a way as to prevent wholesale patient reclassification and transferral. Thank you for your interest in this matter.

Sincerely,

Rev. ALCUIN J. HENGER, O.M.I.,
Director.

ISABELLA GERIATRIC CENTER,
New York, N.Y., June 6, 1974.

Hon. CHARLES H. PERCY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR PERCY: Your Senate Bill Introduction S. 3503, which broadens the Medicaid definition of skilled nursing facility services, is badly needed at this time. As an administrator of one of the larger Medicare and Medicaid certified charitable facilities in the City of New York, I heartily concur with your thoughts that it would be a tremendously traumatic experience for any sick, aging individual to be changed peremptorily from one level of care to another, primarily because there is a legal requirement to do so and not because there exists a real reason for so doing.

The primary problem with our Medicare and Medicaid regulations today stems from the fact that they are predicated upon the assumption that all individuals being admitted to an S.N.F. or an I.C.F. are presumed to be capable of rehabilitation or improvement in their physical and mental lives.

I submit to you that the majority of aging people, admitted to the private, non-profit, charitable facilities throughout the United States, are for the most part entering into a one-way street. The majority of these people, which are among the 5% of the aging people in this country who require institutionalization, go into an S.N.F. or an I.C.F. because there is no other recourse left to them. These are aging people who mainly are over 80 years of age, are suffering from many types of chronic ailments peculiar to the aging process; these are individuals who have begun to go through the process of increasing senility from which there is little or no expectation of improvement; these are citizens who are no longer able to care for themselves and who, by the very nature of their conditions, require long term care.

It is impossible to establish exact categories under which these individuals will fall. It must be left to the personal integrity of the professionally qualified administrators and staffs of the S.N.F.'s and I.C.F.'s to see that these people are properly placed. In the private, non-profit, charitable sector, you can be sure of this because the emphasis is upon quality of care and service and not profit.

I would like to assure you of our support of the kind of progressive legislation you are proposing.

Sincerely yours,

LAWRENCE E. LARSON,
Executive Vice President.

SAINT FRANCIS HOME,
Tiffin, Ohio, June 3, 1974.

Hon. CHARLES H. PERCY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR PERCY: I wish to commend you for introducing S. 3503 to broaden the Medicaid definition of "skilled nursing" in long term care facilities.

In no way can care in skilled nursing in Medicare and Medicaid be compared because in long term care where non-medical, non-nursing factors such as social and psychological needs are important elements in assessing the level of care an individual needs for long term care services.

We in long term care are very thankful and happy that men like you know that people are people and not furniture to be moved here and there. It even upsets Residents to move from one room to another and from the Residential to the Nursing area when their state of health makes it necessary to have them move. The move takes its toll on their peace of mind and adds to or causes mental confusion.

Truly yours,

SISTER M. BERNADETTE,
Administrator.

MILWAUKEE, WIS., *June 13, 1974.*

Hon. CHARLES H. PERCY,
Senate Office Building,
Washington, D.C.

DEAR SENATOR PERCY: I wish to commend you for introducing Senate Bill 3503 and support you in your efforts to get this important piece of legislation passed.

Ever since the passing of P.L. 92-603, we in the non-profit sector of the nursing home industry have been concerned with definitions applied to skilled and intermediate nursing care. The possibility that many of the present SNF patients may be transferred from skilled nursing facilities because of downward reclassification is frightening, to say the least, because of the undue hardship that it would work upon our elderly patients. I therefore encourage you in your efforts to pass Senate Bill 3503 in order to prevent wholesale patient reclassification and transferral. Proper recognition of factors other than just physical must be used in determining the needs of our elderly patients in nursing homes and the type of care that will best serve them.

The current law has brought about many improvements which provide better care for our elderly. The concept, however, of applying Medicare rules across the board to Medicaid patients has shown itself to be inappropriate in a number of instances. One, in particular, comes to mind . . . the utilization review regulations which completely ignore the long term nature of illnesses and conditions of long term care patients. While some type of review may be necessary, the regulations for utilization review as they now stand only add to the cost of care.

I appreciate your interest in the needs of the aging in nursing homes and support you in your efforts to implement legislation which will best serve them.

Sincerely,

Pastor E. F. LEHNINGER,
Executive Director.

TRIBUTE TO ARTHUR K. WATSON

Mr. PERCY. Mr. President, yesterday at the First Presbyterian Church, New Canaan, Conn., I attended the funeral services of Arthur K. Watson, former Ambassador to France and former Chairman of the IBM World Trade Corp.

I have known Dick Watson for several decades. I have witnessed his productive life as a business leader; I have seen his personal life through the eyes of his father Tom Watson, Sr., whose friendship I cherished, through his older brother Tom Watson, whom I have always considered one of the greatest industrialists that this country has ever had, and through the eyes of his beloved wife, Nancy.

The affection and deep attachments

the Watson family have for one another have been apparent to all who have known them.

Their selfless contribution to the American economy, and to the cause of world peace through interdependence of nations and their economies is well known.

I wish today to express on the floor of the Senate my deep regret over Dick Watson's death and my great sympathy to every member of his family.

On behalf of every one of the thousands of friends and admirers that this great family has, we grieve and extend our heartfelt sympathy and understanding at this time of need.

America has lost a distinguished citizen, a fine diplomat who, during the performance of his duties in Paris as Ambassador from the United States to France, distinguished himself in several areas: He worked closely with the representatives of the People's Republic of China, for it was in Paris that our principal diplomatic contacts were being carried on, in conjunction with those initiated by President Nixon and Secretary Kissinger; second, I have spoken a number of times both in meetings of the Foreign Relations Committee and on the floor of the Senate of the invaluable work that Ambassador Watson did with the Government of France to arrest the flow of dreaded drugs to this country and other countries of the world and I think it appropriate for us to give recognition to that fine work again today.

Tribute has been paid by Secretaries of State, by the President, and by Members of this body, for the quiet diplomacy that he carried on, which was extraordinarily effective. We are all indebted for the contribution that this remarkable family has made to their country and to the quality of the lives of their friends. We all join in extending our deepest sympathy to them at this hour.

The wonderful children of Nancy and Dick Watson have the knowledge that no individual could have distinguished himself more in the fields of business and diplomacy—or contributed more to the better understanding of the American people abroad than their father; and at the same time been a finer, more fun loving parent.

It is hard to overemphasize the importance that one individual can have in taking this Nation another step on the perilous and difficult road to peace; to finding ways to strengthen the American economy and the economies of the free nations of the world; and also to protect ourselves against drug abuse, which has been a plague to the world.

I join with my colleagues such as the distinguished Senator from New York (Mr. JAVITS) who worked closely through the years with Dick Watson, in paying tribute to the family and to his memory.

I ask unanimous consent that an outstanding article that appeared in the New York Times of Saturday, July 27, 1974, be printed in the RECORD at this point.

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

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

ARTHUR WATSON OF IBM, EX-ENVOY, DIES

(By William D. Smith)

Arthur K. Watson, who built the IBM World Trade Corporation from a new subsidiary of the giant International Business Machines Corporation in 1949 into a world enterprise with annual revenues of more than $2.5-billion in 1970, died last evening in Norwalk (Conn.) Hospital.

Mr. Watson, who was 55 years old, had been injured in a fall at his home in New Canaan, Conn., on July 18, and had been taken to the hospital.

He left the corporation in 1970 to accept an appointment by President Nixon as Ambassador to France, a post he held for two years.

At his death he was a director of the parent company and a member of the executive committee of the board.

An internationalist in philosophy and in practice, Mr. Watson played a major role in making the IBM trademark a symbol of corporate efficiency and American technological capability around the world.

"World peace through world trade" was the motto of the younger of the two sons of Thomas J. Watson, Sr., the man who built the International Business Machines Corporation from a small concern in upstate New York into one of the nation's most powerful and largest corporations.

The elder son, Thomas J. Watson, Jr., became IBM's chief executive officer in 1956 shortly before his father's death and continued to oversee the company until he retired as chairman of the executive committee last December.

The role assigned to Arthur Watson by his father was to take the IBM message and methods around the world. It was a task for which the tall, handsome younger brother was suited, both by temperament and training.

ON INTERNATIONAL ROLE

It was also a role that would prevent two loving but highly competitive brothers from becoming involved in a rivalry that might in time have damaged both the tightly knit and affectionate Watson family and the corporation. This the patriarch, Thomas J. Watson Sr., considered an extension of his blood family and therefore to be treated with the same care and consideration.

The arrangement worked out well on both counts.

In the nineteen-fifties, before most American corporations had glanced at markets beyond the borders of the United States, Arthur Watson contended that IBM was not an American company but an international company. He said, "We have begun to recognize that we do not produce for a domestic and a foreign market but for a worldwide market."

The two sons as company leaders retained the closs relationship they had developed in childhood. Arthur was to call his elder brother "not only my boss but my best friend." Thomas Jr. returned the affection, and the Watson family, including sisters Jane and Helen, was as close, if not flamboyantly clannish, as the Kennedys (with whom they were friendly).

KNOWN AS DICK

The two brothers lived near each other in Connecticut, had vacation retreats in the same areas and shared the same sporting interests—sailing, skiing and piloting airplanes.

Arthur was the more friendly and outgoing of the two as well as the more volatile; traits the younger brother inherited from his father, according to people familiar with IBM. Arthur Watson was a natty dresser by IBM standards, where the ideal was dark suits and white ties.

He enjoyed socializing, made friends easily and was considered a good cook.

Arthur Kittredge Watson was born April 23, 1919, in Summit, N.J. Before he was out of his crib, his brother and sisters had nicknamed him "Dick" because it was the first word he spoke. It was a name that was to stick with him the rest of his life and separated those who knew him well from those who pretended to be friends.

He graduated from Hotchkiss School and in 1942 from Yale University where his 6-foot-2-inch frame helped to power the varsity crew.

Dick Watson's first trip abroad was when he was three. At Yale he studied international relations. He entered the Army immediately after graduation and applied for European duty, only to be assigned as an instructor in the Ordnance Corps at Aberdeen, Md. After the war, the Army sent him to the Philippines where he finished his active duty as a major.

He asked his father if he could stay in the Far East as a salesman. But the elder Watson called him back to act as his personal secretary and translator on a business trip to Europe. Mr. Watson at that time could speak French "reasonably well" and had some knowledge of German and Spanish.

MADE DIRECTOR IN 1949

"Dad was feeling me out," Dick Watson later explained. In 1949 when IBM World Trade was formed, Mr. Watson was named vice president and a director.

"That was a great day," he once recalled. "I can't remember when I didn't want to get into the international end of the business."

In 1954, Arthur Watson was elected president of IBM World Trade. He became chairman in 1963. At that time he said: "The most outstanding thing that happened from my vantage point in the past 15 years is the tremendous progress in bringing the world closer together. If anyone had said in 1949 when World Trade was formed, that there would be economic integration in Europe within a decade, he would have been locked up."

As Ambassador to France, he handled with competence some delicate tasks including the first official contacts between the United States and Communist China. These meetings led to a personal friendship with Huang Chen, then China's Ambassador to France. When Mr. Chen was subsequently posted to the United States, he visited Mr. Watson's home in New Canaan, and Mr. Watson had also visited China as a guest of that country.

Mr. Watson, in addition to his wife, leaves three sons, Arthur K., Stuart H. and David J., and three daughters, Ann Carroll, Jane White and Caroline T.

ARTHUR K. WATSON

Mr. JAVITS. Mr. President, I wish to say a word about the passing over the last weekend of Arthur K. Watson, former U.S. Ambassador to France and former chairman of the IBM World Trade Corp.

Dick Watson, as he was very affectionately called, was a close friend of mine. I knew him well in the United States and visited with him from time to time when he was Ambassador to France. There he made a fine Ambassador for us in France and greatly contributed to our Embassy establishment by beautifying the residence most remarkably.

I was especially impressed with that as the capstone of his fine career.

His participation with his brother, both the sons of Thomas J. Watson, who founded the IBM, in one of the most extraordinary developments of business in the public interest which we know in this country, and which we know in the world, was most noteworthy.

Whatever may be the antitrust suits

and other problems facing IBM, one thing is clear: it revolutionized business in the world, both in the example it set as an institution and in the products it sold, including the technology so heavily responsible for the fact that a good part of the world has caught up with American efficiency in the business field.

Also, the two Watson sons, Dick, who has passed away, and Tom, who is happily with us—a wonderful executive, human being, humanitarian, and civic leader—understood their father's message, which was that it was not necessary for A to lose in business if B profited. On the contrary, they were exemplars of the great American concept that both the buyer and the seller could profit from a constructive business deal and that it was the pride of a great business that it could be an establishment of tremendous beneficence to those who worked for it and to their families.

I have personal knowledge from many directions, including the operations of major plans of IBM in the State of New York, as to how this great and beneficent principle, which has been so heavily responsible for the unique kind of people's capitalism practiced in the United States, has been helped materially in its development by their father, Thomas J. Watson, and by Dick and Tom Watson.

Mr. President, both brothers undertook, at my request, critically important missions of tremendous help, in a civic sense, to our country.

When I was attorney general of New York, Tom Watson was chairman of a great youth commission which laid the basis for a very advanced youth program for the State of New York.

Dick Watson chaired a commission, whose organization I was able to bring about, which dealt with the effort among other responsibilities to develop ways in which the private enterprise system could be of assistance to private enterprise in the developing countries. It was heavily based upon the ideas which matured with the great Adela Investment Co., probably the greatest single concept in the business world of private enterprise help to private enterprise in the developing countries and Dick Watson was one who among other distinguished leaders, helped to bring Adela into being as the cornerstone of a worldwide movement.

Mr. President, Dick Watson's contributions to international relations have been highly honored, with many awards and much recognition. He lived an extremely useful life. He was taken from us, considering the usefulness of his life, his character, and his very high ideals, much too soon, as lifetimes go today.

My wife and I join in offering our most sincere and profound condolences to his wife, Nancy, and to his marvelous children, Arthur K., Stuart H., David J., Ann Carroll, Jane White, and Caroline T., and to Tom Watson his brother, Mrs. Helen Buckner his sister and their families.

Mr. President, I ask unanimous consent that various documents bearing upon the death of Arthur K. Watson be printed at this point in the RECORD.

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

ARTHUR K. WATSON DIES; ENVOY, IBM WORLD LEADER

Arthur K. Watson, 55, former U.S. ambassador to France and former chairman of the IBM World Trade Corp., died yesterday in Norwalk Hospital in Connecticut of injuries he suffered July 18 in a fall in his New Canaan home.

In 1949, Watson and his father, the late Thomas J. Watson, who founded International Business Machines Corp. incorporated and organized the IBM World Trade Corp., an IBM subsidiary that handles business done outside the United States. As president and later board chairman of the corporation, he was instrumental in expanding American business communities in developing countries.

When Watson joined IBM as a salesman in 1947, its sales outside the country were less than $50 million. But when he resigned in 1970 to become ambassador to France, sales had grown to more than $2.5 billion and the company had established business operations in 108 countries. At that time, net income from the world operations equaled that of the parent company in the United States.

Watson especially sought to establish a larger American business role in Latin America. In 1964, he and Sen. Jacob Javits, R-N.Y., formed an investment institution in Lima, Peru. The institution is funded by a worldwide group of banks and corporations and provides capital for local businesses in Latin America.

In 1970, Watson resigned as chairman of IBM World Trade to become U.S. ambassador to France. In Paris, he became involved in a joint U.S.-French effort to stop the traffic in heroin that was finding its way into America. His influence led to an increase in U.S. and French narcotics agents.

Watson became America's first official liaison with the Peoples Republic of China through relationship with Huang Chen, China's ambassador to France. Recently, Watson visited China with his family at the invitation of the republic.

Watson's contributions to international relations were recognized with honors from several countries. He received the Vatican's Equestrian order of St. Sylvester and won the French Legion of Honor before being named ambassador by President Nixon. French President Georges Pompidou also awarded him the Grand Cross of the Republic's Order of Merit, one of France's highest honors.

When he returned to the United States in 1972, he was re-elected to IBM's board of directors and its executive committee.

Watson entered Yale University in 1938, after attending the Hotchkiss School. He was studying international affairs, but was forced to leave before graduation to join the Army. Five years later he returned to Yale and received a bachelor's degree.

Watson was an avid and competitive sportsman and also was an excellent skier. He was an accomplished airplane pilot as well. He owned a house in Camden, Maine, where he was director of the Camden Yacht Club.

He leaves his wife, the former Ann C. Hemingway; three daughters, Ann Carroll, Jane White and Caroline Trowbridge; three sons, Arthur K., Stuart H., and David J., a brother, Thomas J. Jr., and a sister, Mrs. Helen Buckner.

Funeral arrangements were incomplete. The family requests that expressions of sympathy be in the form of contributions to the VITAM Center, 57 West Rocks Road, Norwalk, Conn., a drug rehabilitation center for young people.

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"World peace through world trade was the motto of the younger of the two sons of Thomas J. Watson Sr., the man who built the International Business Machines Corporation from a small concern in upstate New York into one of the nation's most powerful and largest corporations.

The elder son, Thomas J. Watson Jr., became IBM's chief executive officer in 1956 shortly before his father's death and continued to oversee the company until he retired as chairman of the executive committee last December.

The role assigned to Arthur Watson by his father was to take the IBM message and methods around the world. It was a task for which the tall, handsome younger brother was suited, both by temperament and training.

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It was also a role that would prevent two loving but highly competitive brothers from becoming involved in a rivalry that might in time have damaged both the tightly knit and affectionate Watson family and the corporation. This the patriarch, Thomas J. Watson, Sr., considered an extension of his blood family and therefore to be treated with the same care and consideration.

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MADE DIRECTOR IN 1949

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"That was a great day," he once recalled. "I can't remember when I didn't want to get into the international end of the business."

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Mr. Watson, in addition to his wife, leaves three sons, Arthur K., Stuart H. and David J., and three daughters, Ann Carroll, Jane White and Caroline T.

TRANSACTION OF ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore. At this time, in accordance with the previous order, there will be a period for the transaction of routine morning business not to exceed 15 minutes, with statements by Senators therein limited to 5 minutes each.

Is there morning business to be transacted?

ORDER OF BUSINESS

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

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

The second legislative clerk proceeded to call the roll.

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

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

The Senator from Illinois is recognized.

TRIBUTE TO SENATOR RIBICOFF

Mr. PERCY. Mr. President, it has been my privilege since being in the Senate to work very closely with Senator RIBICOFF, particularly on the Committee on Government Operations. We are now working side-by-side on the floor of the Senate in connection with the Agency for Consumer Advocacy. I noticed in this morning's New York Times an article entitled "Ribicoff's Charmed Life: From Poverty to Power."

Certainly, in looking at that article, I found many aspects of it not only interesting but also depicting a remarkable life of public service that I have long admired. Though Senator RIBICOFF is of the opposite persuasion politically and I have always supported Republicans running for office in his own State, I notice that this article dramatically points out the difference of opinion that Senator RIBICOFF had with members of his own party, such as Mayor Daley in Chicago during the 1968 convention, which very few people will ever forget who watched that dramatic confrontation.

I think that many Members of our body and those who receive the CONGRESSIONAL RECORD will be interested in reading this perceptive article on the life of Senator RIBICOFF. Therefore, I ask unanimous consent that the article appearing in this morning's New York Times be printed in the RECORD at this point.

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

RIBICOFF'S CHARMED LIFE: FROM POVERTY TO POWER

(By Martin Tolchin)

WASHINGTON.—From the very beginning, he was something special.

Abraham A. Ribicoff was born with a caul, which his poverty-ridden Orthodox Jewish family considered a sign of great fortune. Although the family lived in a New Britain, Conn., tenement, his parents believed the child would lead a charmed life and reach great heights. From earliest childhood this belief was instilled in the boy, along with the necessity to preserve the caul, a membrane which is now protected in tissue paper in Senator Ribicoff's Watergate apartment.

The caul, apparently, has continued to work. At Hartford's Bushwell Memorial Hall, Mr. Ribicoff was nominated July 20 for a third term in the United States Senate, and became an almost prohibitive favorite for re-election. In January, he is widely expected to become a major power in the Senate by gaining the chairmanship of the Government Operations Committee.

Last weekend, the Connecticut Republicans selected James H. Brannen, a black state legislator, to oppose Mr. Ribicoff in November. A Republican poll two weeks ago found that Connecticut voters gave Mr. Ribicoff a 77.9 per cent favorability rating. The Senator expects to spend most of the fall attending President Nixon's trial in the Senate should the House vote impeachment.

Mr. Ribicoff, over the years, has led a charmed life politically, one marked by an almost uncanny ability to anticipate issues, from safety to consumer protection, and to forge strategic alliances—with John M. Bailey, Connecticut Democratic chairman: the Kennedys; the late Senator Richard B. Russell and Senator John C. Stennis of the Senate's power structure.

Mr. Ribicoff's career also owes much to an instinct for the dramatic gesture—a tour of flood-stricken cities while Governor, a confrontation with Chicago's Mayor Richard J. Daley at the Democratic National Convention in 1968, a Congressional hearing on the plight of the cities, and another hearing during the energy crisis when he questioned oil company executives.

This talent seems almost out of character for Mr. Ribicoff, an intensely private man, a humorless, distant man who carries himself with the patrician bearing of one who never seriously doubted his success. He is a man of handsome elegance, always meticulously dressed, given to smoothing his wavy graying hear, his lips downturned in an expression of perpetual, vague distaste.

"I'm not a backslapper," Senator Ribicoff conceeds. "I'm not gregarious. I'm not hail-fellow-well-met. But everyone calls me Abe."

"Abe is the most instinctive politician I have ever seen in my life," says Wilbur J. Cohen, whose basis of comparison includes having worked for presidents Kennedy and Johnson. Mr. Cohen, a former Secretary of Health, Education and Welfare, served as assistant secretary in 1961, when Mr. Ribicoff headed the agency.

"Abe is the kind of man who feels in his guts almost instantaneously, and then gives you the intellectual and political justification," Mr. Cohen said.

"I once asked Abe why he became the first prominent political figure to support John Kennedy for President," Mr. Cohen continued, "Abe said, 'I had the reaction that every woman would like him to be her husband, and every mother would like him to be her son.' There were no political reasons, no ideology, no other justifications."

THE RIBICOFF ISSUES

A Senate colleague called Mr. Ribicoff "a very calculating politician" who had an instinct for cresting with the waves of a popular issue. Through the years, Mr. Ribicoff has championed auto safety, pollution control, health care, aid for the aged, help for the plight of the cities and now, consumer protection. In fairness, however, it must be said that Mr. Ribicoff also identified and dramatized those issues.

In evaluating fellow politicians, Senator Ribicoff divides them into two groups: wholesalers, whom he admires, and retailers, whom he disdains.

"Wholesalers undertake the big issues, the big picture and the big problems, while retailers devote their lives to all the petty things—door-to-door salesmen who cultivate the political vineyards, backslapping, greeting, doing minor retailing."

The 64-year-old Senator, who acquired a fortune in real estate during his 35 years in public life, worked his way through public schools and the University of Chicago Law School in an assortment of jobs that included paper boy, caddy, milkman's helper, gasoline pumper, construction worker, and Midwest sales representative of a zipper company. He remains counsel to his brother's law firm. Ribicoff and Kotkin, which paid the Senator $15,000 last year. The Senator and his wife reported a total joint personal income of $125,443 last year.

SCOPE OF CAREER

Mr. Ribicoff's public career, always abetted by Hartford's Jewish community, began with two terms in the Legislature and included six years as Hartford municipal judge, six years as New England's first Jewish Governor, two years as Secretary of Health, Education and Welfare and twelve as United States Senator.

The cornerstone has been a relationship with John Bailey, with whom Mr. Ribicoff's fortunes have been entwined.

"We were two young lawyers with offices on the same floor," Mr. Bailey recalled. "I helped elect him to the Legislature in 1938. I gave him the nomination for United States Senate in 1952, which he lost, and I supported him for the Governorship in 1954 which he won."

"I thought he would be the strongest candidate," Mr. Bailey continued. "I feel that Connecticut is a very sophisticated state, and you aren't going to win unless you have good candidates."

The two men spotted another comer, John F. Kennedy, who rewarded Mr. Ribicoff with the H.E.W. post, which he grew to hate because decisions he had to make were often politically unpopular. Mr. Bailey became Democratic National Chairman.

Mr. Bailey and Mr. Ribicoff insist that, from the outset, that they enjoyed a division of labor, with Mr. Ribicoff running the state and Br. Bailey, running the politics.

"I never wanted to be a power broker," the Senator insists. "I never sought to build a political machine."

Some political observers believe, however, that it is impossible to separate from politics, the record suggests, moreover, that a various key junctures in their mutual careers, it was Mr. Ribicoff who wielded the power and Mr. Bailey who took the orders.

In 1958, for example, when he sought and won a second term as Governor, Mr. Ribicoff selected as his running mate his executive assistant, John N. Dempsey, over the objections of Mr. Bailey, who had supported Henry Altobello. Mr. Ribicoff had the political muscle, and Mr. Dempsey moved into the Governor's Mansion in 1961, when Mr. Ribicoff resigned to go to Washington. Mr. Dempsey was elected Governor in his own right in 1962.

In 1970, Mr. Ribicoff refused to accept the Democratic State Convention's selection of Alphonsus Donohue—a Bailey protégé—as the party's nominee for United States Senate, and instead supported a primary race by Joseph Duffey, who won the nomination but lost the general election in a three-way race.

This year, although Mr. Ribicoff and Mr. Bailey had remained outwardly neutral in the contest for the Democratic nomination for Governor, many of Mr. Bailey's lieutenants supported the nomination of Robert Killian, the state's Attorney General, leading Connecticut Democrats to believe that Mr. Killian had Mr. Bailey's blessing.

Mr. Ribicoff, on the other hand, telephoned the state Democratic leaders and quoted the polls, which favored Ella T. Grasso, who won the nomination and is regarded as the front-runner in the general election.

"It was like the Lord quoting the facts," said Nicholas Carbone, Hartford's Democratic Chairman, who interpreted the Senator's telephone campaign as an indirect endorsement of Mrs. Grasso.

"DOESN'T MUSCLE"

"Abe works with the party in a quiet way," Mr. Carbone continued. "I've never known him to tell anybody to do anything. He very seldom asks, and never tells anyone, yet, in the final analysis he's very effective. He doesn't muscle anyone. It's not his style. He doesn't leave fingerprints."

The low-key style also characterizes Mr. Ribicoff's work in Washington, where he is regarded as impeccably liberal but occasional victim of "legislative fatigue," in the words of one close Ribicoff-watcher.

Ralph Nader, the consumer advocate whom Senator Ribicoff gave his first Congressional forum during the auto-safety hearings, said that when public-interest people think of starting an idea moving in the Senate, Mr. Ribicoff is "clearly one of the 10 Senators you'd go to."

"Unfortunately, he's not much of an advocate toward other Senators," Mr. Nader said. "He doesn't like to persuade other Senators to vote with him. . . . He seems chronically reluctant to use the power he has."

In the Senator's present campaign for a consumer protection agency, for example, "unlike Senator Alan Cranston, of California, he's temperamentally incapable of buttonholing Senators and saying, 'Vote for this bill,'" Mr. Nader said.

Mr. Ribicoff, aware of this criticism, replies that "I am reluctant to push people against the wall" and adds that "I'm not a wheeling-dealing Senator."

A METICULOUS MAN

From Mr. Ribicoff's earliest days in politics, several threads have run through his career. One is attention to details. "Nothing is sloppy," said Gloria Schaffer, Connecticut's Secretary of the State. "He's meticulous in the way he looks, and that's exactly what's going on inside."

It was this meticulousness, and a gift for political survival, that led Mr. Ribicoff to initiate a year-long series of Connecticut brunches in 1973, in all sections of the state, attended by all Democratic officeholders. "They led to the united Democratic party that you see today," Mr. Ribicoff said.

Mr. Ribicoff also has a well-defined public relations instinct, and enjoys excellent relations with the working press. As Governor, he held two press conferences daily.

During the 1954 campaign for Governor, Mr. Ribicoff dramatically confronted an anti-Semitic whispering campaign by going on television and declaring: "Any boy, regardless of race, creed or color has the right to aspire to public office. It is not important whether I win or lose. The important thing is, ladies and gentlemen, that Abe Ribicoff is not here to repudiate the American dream, and I know that the American dream can come true."

His most dramatic confrontation, however, came at the 1968 National Convention, when he threw away his prepared speech nominating Senator George McGovern of South Dakota and instead assailed Mayor Daley and "Gestapo tactics on the streets of Chicago." The Mayor replied with obscenities on live television.

ORDER FOR ADJOURNMENT TO 11 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, when the Senate completes its business today, it stand in adjournment until the hour of 11 a.m. tomorrow.

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

ORDER FOR RECOGNITION OF SENATOR ROBERT C. BYRD TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that after the two leaders or their designees have been recognized tomorrow, I be recognized for not to exceed for 15 minutes, which at the moment I do not anticipate using, and I shall yield to any Senator who may suddenly have need for time.

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

ORDER FOR PERIOD FOR THE TRANSACTION OF ROUTINE MORNING BUSINESS TOMORROW AND FOR CONSIDERATION OF TREASURY-POSTAL SERVICE APPROPRIATION BILL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that following the order for the recognition of Senators tomorrow, there be a period for the transaction of routine morning business for not to exceed 15 minutes, with statements limited therein to 5 minutes, after which the Senate proceed to the consideration of the Treasury-Postal Service appropriation bill.

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

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

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

REPORT OF THE COMPTROLLER GENERAL

A letter from the Comptroller General of the United States, transmitting a secret document entitled "Follow-up Review of Refugee, War Casualty, Civilian Health, and Social Welfare Programs in Laos (B–133001)" (with an accompanying report). Referred to the Committee on Government Operations.

PROPOSED AMENDMENT TO THE BUDGET, 1975, FOR THE FEDERAL HOME LOAN BANK BOARD (S. Doc. No. 93–98)

A communication from the President of the United States, transmitting a proposed amendment to the appropriations language in the budget for the fiscal year 1975 for the Federal Home Loan Bank Board (with accompanying papers). Referred to the Committee on Appropriations.

PROPOSED LEGISLATION TO INCLUDE OFFICERS AND EMPLOYEES OF THE DEPARTMENT OF AGRICULTURE ASSIGNED TO PERFORM INVESTIGATIVE, INSPECTION, OR LAW ENFORCEMENT FUNCTIONS UNDER SECTION 1114 OF TITLE 18, UNITED STATES CODE

A letter from the Deputy Under Secretary of Agriculture, transmitting a draft of proposed legislation to amend section 1114 of Title 18 of the United States Code to include officers and employees of the Department of Agriculture assigned to perform investigative, inspection, or law enforcement functions (with accompanying papers). Referred to the Committee on Agriculture and Forestry.

FEDERAL PLAN FOR METEOROLOGICAL SERVICES AND SUPPORTING RESEARCH

A letter from the Deputy Director, Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, the Fiscal Year 1975 Federal Plan for Meteorological Services and Supporting Research (with an accompanying document). Referred to the Committee on Appropriations.

REPORT OF TRANSFERS BETWEEN SUBDIVISIONS OF THE FISCAL YEAR 1974 OPERATION AND MAINTENANCE

A letter from the Secretary of the Air Force, reporting, pursuant to law, transfers under $5,000,000 between subdivisions of the Fiscal Year 1974 Operation and Maintenance Appropriation. Referred to the Committee on Appropriations.

THE KIOWA, COMANCHE, AND APACHE TRIBES OF INDIANS, PLAINTIFFS, V. THE INDIAN STATES OF AMERICA, DEFENDANT, INDIAN CLAIMS COMMISSION

A letter from the Chairman, Indian Claims Commission, reporting, pursuant to law, final determinations with respect to Docket Nos. 257 and 259–A, The Kiowa, Comanche and Apache Tribes of Indians, Plaintiffs, v. The United States of America, Defendant (with accompanying papers). Referred to the Committee on Appropriations.

REPORT ON PROPERTY ACQUISITIONS OF EMERGENCY SUPPLIES AND EQUIPMENT BY DEFENSE CIVIL PREPAREDNESS AGENCY

A letter from the Director, Defense Civil Preparedness Agency, reporting, pursuant to law, on property acquisitions of emergency supplies and equipment by the Defense Civil Preparedness Agency. Referred to the Committee on Armed Services.

REPORT OF THE DEFENSE CIVIL PREPAREDNESS AGENCY

A letter from the Secretary of Defense, transmitting, pursuant to law, the 1973 Annual Report of the Defense Civil Preparedness Agency covering civil defense functions assigned to the Secretary of Defense by Executive Order 10952 of July 20, 1961 (with an accompanying report). Referred to the Committee on Armed Services.

CONTRACT AWARD DATES, DEPARTMENT OF THE ARMY

A letter from the Assistant Secretary of Defense, reporting, pursuant to law, contract award dates for the period July 15 to October 15, 1974 (with accompanying papers). Referred to the Committee on Armed Services.

PROPOSED LEGISLATION TO PERMIT PERSONS FROM COUNTRIES FRIENDLY TO THE UNITED STATES TO RECEIVE INSTRUCTION AT THE U.S. MILITARY ACADEMY, THE U.S. NAVAL ACADEMY, AND THE U.S. AIR FORCE ACADEMY

A letter from the Secretary of the Navy, transmitting a draft of proposed legislation to amend title 10, United States Code, to permit persons from countries friendly to the United States to receive instruction at the U.S. Military Academy, the U.S. Naval Academy, and the U.S. Air Force Academy, and for other purposes (with accompanying papers). Referred to the Committee on Armed Services.

PROPOSED LEGISLATION TO ELIMINATE REQUIREMENT FOR QUADRENNIAL PHYSICAL EXAMINATIONS FOR MEMBERS OF THE FLEET RESERVE AND FLEET MARINE CORPS RESERVE

A letter from the Secretary of the Navy, transmitting a draft of proposed legislation to amend title 10, United States Code, to eliminate the requirement for quadrennial physical examinations for members of the Fleet Reserve and Fleet Marine Corps Reserve (with accompanying papers). Referred to the Committee on Armed Services.

PROPOSED LEGISLATION TO PROVIDE FOR USE OF MARGARINE AS PART OF THE NAVY RATION

A letter from the Secretary of the Navy, transmitting a draft of proposed legislation to amend section 6082 of title 10, United States Code, to provide for the use of margarine as part of the Navy ration (with accompanying papers). Referred to the Committee on Armed Services.

REPORT ON LOAN, GUARANTEE, AND INSURANCE TRANSACTIONS SUPPORTED BY EXIMBANK TO YUGOSLAVIA, ROMANIA, THE UNION OF SOVIET SOCIALIST REPUBLICS, AND POLAND, APRIL 1974

A letter from the President and Chairman, Export-Import Bank of the United States, reporting, pursuant to law, on loan, guarantee, and insurance transactions supported by Eximbank to Yugoslavia, Romania, the Union of Soviet Socialist Republics, and Poland during April 1974. Referred to the Committee on Banking, Housing and Urban Affairs.

REPORT ON LOAN, GUARANTEE, AND INSURANCE TRANSACTIONS SUPPORTED BY EXIMBANK TO YUGOSLAVIA, ROMANIA, THE UNION OF SOVIET SOCIALIST REPUBLICS, AND POLAND, MAY 1974

A letter from the President and Chairman, Export-Import Bank of the United States, reporting, pursuant to law, on loan, guarantee, and insurance transactions supported by Eximbank to Yugoslavia, Romania, the Union of Soviet Socialist Republics, and Poland during May 1974. Referred to the Committee on Banking, Housing and Urban Affairs.

PROPOSED LEGISLATION TO CONTINUE DURATION OF THE FEDERAL SAVINGS AND LOAN ADVISORY COUNCIL

A letter from the Chairman, Federal Home Loan Bank Board, transmitting a draft of proposed legislation to amend the Federal Home Loan Bank Act to provide for the continued duration of the Federal Savings and Loan Advisory Council (with accompanying papers). Referred to the Committee on Banking, Housing and Urban Affairs.

ANNUAL REPORT OF THE NATIONAL TRANSPORTATION SAFETY BOARD

A letter from the Chairman, National Transportation Safety Board, Department of Transportation, transmitting, pursuant to law, the 1973 Annual Report of the National Transportation Safety Board (with an accompanying report). Referred to the Committee on Commerce.

STATISTICAL SUPPLEMENT TO FEDERAL TRADE COMMISSION REPORT TO CONGRESS

A letter from the Chairman, Federal Trade Commission, transmitting a statistical supplement to the Commission's report on cigarette labeling and advertising, dated December 31, 1973, which was submitted pursuant to the Public Health Cigarette Smoking Act (with accompanying papers.) Referred to the Committee on Commerce.

REPORT ON ADMINISTRATION OF THE MARINE MAMMAL PROTECTION ACT OF 1972

A letter from the Secretary of Commerce, transmitting, pursuant to law, the report of the Department of Commerce on the administration of the Marine Mammal Protection Act of 1972 (with an accompanying report). Referred to the Committee on Commerce.

REPORT OF AMTRAK FOR MONTH OF MARCH 1974

A letter from the Director, Federal Affairs, reporting, pursuant to law, total itemized revenues and expenses, revenues and expenses of each train operated, and revenue and total expenses attributable to each railroad over which service is provided, for the month of March 1974 (with accompanying papers). Referred to the Committee on Commerce.

REPORT ON STEAM-ELECTRIC PLANT CONSTRUCTION COST AND ANNUAL PRODUCTION EXPENSES, 1972

A letter from the Chairman, Federal Power Commission, submitting, for the information of the Senate, a publication entitled "Steam-Electric Plant Construction Cost and Annual Production Expenses, 1972, Federal Power Commission" (with an accompanying publication). Referred to the Committee on Commerce.

REPORT ENTITLED "NATURAL GAS SURVEY"

A letter from the Chairman, Federal Power Commission, submitting, for the information of the Senate, a copy of Volume IV of the National Gas Survey, "Distribution Task Force Reports," (with an accompanying publication). Referred to the Committee on Commerce.

PROPOSED LEGISLATION TO INCREASE THE BORROWING AUTHORITY OF THE PANAMA CANAL COMPANY AND REVISE THE METHOD OF COMPUTING INTEREST THEREON

A letter from the President, Panama Canal Company, transmitting a draft of proposed legislation to increase the borrowing authority of the Panama Canal Company and revise the method of computing interest thereon (with accompanying papers). Referred to the Committee on Commerce.

PROPOSED LEGISLATION TO AMEND THE ACT TO ESTABLISH A DISTRICT OF COLUMBIA ARMORY BOARD AND THE DISTRICT OF COLUMBIA STADIUM ACT OF 1957

A letter from the Mayor-Commissioner of the District of Columbia, transmitting a draft of proposed legislation to amend the act entitled "An Act to establish a District of Columbia Armory Board, and for other purposes", and the "District of Columbia Stadium Act of 1957", (with accompanying papers). Referred to the Committee on the District of Columbia.

THE BATTLE ACT REPORT OF 1973

A letter from the Acting Assistant Secretary for Economic and Business Affairs, Department of State, transmitting, pursuant to law, the 26th report on operations under the Mutual Defense Assistance Control Act of 1951 (Battle Act) (with an accompanying report). Referred to the Committee on Foreign Relations.

INTERNATIONAL AGREEMENTS OTHER THAN TREATIES ENTERED INTO BY THE UNITED STATES

A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, international agreements other than treaties entered into by the United States within 60 days after the execution thereof (with accompanying papers). Referred to the Committee on Foreign Relations.

REPORT ON GRANTS FOR BASIC SCIENTIFIC RESEARCH AND TRANSFER OF TITLE TO GOVERNMENT EQUIPMENT

A letter from the Assistant Secretary of Defense, transmitting, pursuant to law, a report showing grants for basic scientific research made by the Department of Defense to nonprofit institutions during calendar year 1973 (with an accompanying report). Referred to the Committee on Government Operations.

PROPOSED LEGISLATION TO PROVIDE MORE EFFECTIVE MEANS TO IMPROVE PERSONNEL ADMINISTRATION IN STATE AND LOCAL GOVERNMENTS; TO CORRECT CERTAIN INEQUITIES IN THE LAW; AND TO EXTEND COVERAGE UNDER THE LAW TO INDIAN TRIBES AND THE TRUST TERRITORY OF THE PACIFIC ISLANDS

A letter from the Chairman, U.S. Civil Service Commission, transmitting a draft of proposed legislation to amend the Intergovernmental Personnel Act of 1970 to provide more effective means to improve personnel administration in State and local governments; to correct certain inequities in the law; and to extend coverage under the law to Indian tribes and the Trust Territory of the Pacific Islands (with accompanying papers). Referred to the Committee on Government Operations.

REPORTS OF THE COMPTROLLER GENERAL

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on the Modernization of 1872 Mining Law Needed to Encourage Domestic Mineral Production, Protect the Environment, and Improve Public Land Management, Department of the Interior, Department of Agriculture (with an accompanying report). Referred to the Committee on Government Operations.

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on Salmonella in Raw Meat and Poultry; An Assessment of the Problem, Food and Drug Administration, Department of Health, Education, and Welfare, Animal and Plant Health Inspection Service, Department of Agriculture (with an accompanying report). Referred to the Committee on Government Operations.

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on Improvements Needed in Examining and Selecting Applicants for Federal Employment, Civil Service Commission (with an accompanying report). Referred to the Committee on Government Operations.

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on Project REFLEX (Resource Flexibility)—A Demonstration of Management Through Use of Fiscal Controls Without Personnel Ceilings, Department of Defense (with an accompanying report). Referred to the Committee on Government Operations.

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on Better Planning and Management Needed by the Veterans Administration to Improve Use of Specialized Medical Services (with an accompanying report). Referred to the Committee on Government Operations.

REPORT OF ACTIVITIES OF THE 1973 YOUTH CONSERVATION CORPS PROGRAM

A letter from the Assistant Secretary of Agriculture, transmitting, pursuant to law, a report detailing the activities of the 1973 Youth Conservation Corps Program (with an accompanying report). Referred to the Committee on Interior and Insular Affairs.

REPORT ON ADMINISTRATION OF THE WILD FREE-ROAMING HORSE AND BURRO ACT, JUNE 1974

A letter from the Assistant Secretary of the Interior and the Deputy Assistant Secretary of Agriculture, transmitting, pursuant to law, a report on Administration of the Wild Free-Roaming Horse and Burro Act, Public Law 92–195, June 1974 (with an accompanying report). Referred to the Committee on Interior and Insular Affairs.

PROPOSED AMENDMENT TO CONCESSION CONTRACT AUTHORIZING OGLALA SIOUX TRIBE TO PROVIDE ACCOMMODATIONS, FACILITIES AND SERVICES FOR THE PUBLIC VISITING CEDAR PASS LODGE, BADLANDS NATIONAL MONUMENT, S. DAK.

A letter from the Acting Assistant Secretary of the Interior, transmitting, pursuant to law, a proposed amendment to Concession Contract No. 14–10–9–900–209 authorizing the Oglala Sioux Tribe, to provide accommodations, facilities, and services for the public visiting Cedar Pass Lodge within Badlands National Monument, S. Dak., for a term of 1 year from January 1, 1974, through December 31, 1974 (with accompanying papers). Referred to the Committee on Interior and Insular Affairs.

PROPOSED PLAN FOR USE AND DISTRIBUTION OF JUDGMENT FUNDS AWARDED TO THE NEZ PERCE TRIBE OF IDAHO

A letter from the Acting Assistant Secretary of the Interior, submitting, pursuant to law, a plan for the use and distribution of the judgment funds awarded in Docket 175–B to the Nez Perce Tribe of Idaho before the Indian Claims Commission (with accompanying papers). Referred to the Committee on Interior and Insular Affairs.

REPORT OF ACTIVITIES IN CERTAIN COUNTRIES RELATING TO APPLICATIONS FOR CONDITIONAL ENTRY

A letter from the Acting Commissioner, Immigration and Naturalization Service, U.S. Department of Justice, reporting, pursuant to law, on activities in certain countries relating to applications for conditional entry, for the period between December 31, 1973, and June 30, 1974 (with accompanying papers). Referred to the Committee on the Judiciary.

REPORT ON SEARCH FOR SUCCESS TOWARD POLICY ON EDUCATIONAL EVALUATION

A letter from the Acting Chairwoman, National Advisory Council on Education Professions Development, submitting, pursuant to law, a report entitled "Search for Success; Toward Policy on Educational Evaluation" (with accompanying papers). Referred to the Committee on Labor and Public Welfare.

REPORT ON NATIONAL PROGRAM OF INSPECTION OF DAMS

A letter from the Acting Secretary of the Army, reporting, pursuant to law, on the national program of inspection of dams. Referred to the Committee on Public Works.

REPORT COVERING RELIEF FOR ADMINISTRATIVE ERROR—VETERANS' ADMINISTRATION

A letter from the Administrator, Veterans' Administration, reporting, pursuant to law, on cases of relief for administrative error (with accompanying papers). Referred to the Committee on Veterans Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. SPARKMAN, from the Committee on Foreign Relations, with an amendment:

S. 2193. A bill to provide for increased participation by the United States in the Asian Development Bank (Rept. No. 93–1040).

By Mr. HART, from the Committee on Commerce, with an amendment:

H.R. 3620. An act to establish the Great Dismal Swamp National Wildlife Refuge (Rept. No. 93–1039).

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

H.R. 4861. An act to amend the Act of October 4, 1961, providing for the preservation and protection of certain lands known as Piscataway Park in Prince Georges and Charles Counties, Md., and for other purposes (Rept. No. 93–1041).

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

H.R. 12884. An act to designate certain lands as wilderness (Rept. 93–1043).

By Mr. CLARK, from the Committee on Agriculture and Forestry, without amendment:

H.R. 14723. An act to amend the Agricultural Act of 1970 to change the date on which the President must report to Congress concerning Government assisted services to rural areas (Rept. No. 93–1042).

EXECUTIVE REPORTS OF COMMITTEES

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

Mr. THURMOND. Mr. President, from the Committee on Armed Services, I report favorably the nominations of 27 in the Army for the temporary appointment to the grade of major general and 28 in the Army for permanent promotion to the grade of brigadier general. I ask that these names be placed on the Executive Calendar.

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

(The nominations ordered to be placed on the Executive Calendar were printed in the RECORD of July 8, 1974, at page 22306).

Mr. STENNIS. Mr. President, from the Committee on Armed Services, I report favorably the nominations of Lieutenant General Benade, USA, to be placed on the retired list in that grade, Major General Kissinger to be lieutenant general; in the Navy, Vice Admirals Beshany, Cagle, and Miller to be placed on the retired list in the grade of vice admiral and Rear Admirals Turner, Kaufman, Doyle, Jr., and Snyder for promotion to the grade of vice admiral; and, in the Air Force, General O'Keefe to be placed on the retired list in that grade, Lieutenant Generals Robbins, Kent, Talbott, Sherrill and Sweat to be placed on the retired list in the grade of lieutenant general; and, Major Generals Carson, Jr., and Burns to be promoted to the grade of lieutenant general. I ask that these names be placed on the Executive Calendar.

In addition, there are 5,423 in the Army and Reserve of the Army and National Guard in the grade of colonel and below; in the Navy and Reserve of the Navy there are 140 in the grade of captain and below; and, in the Air Force and Air Force Reserve there are 1,421 for promotion to the grade of colonel and below. Since these names have appeared previously in the RECORD and to save the expense of printing on the Executive Calendar, I ask unanimous consent that they be ordered to lie on the Secretary's desk for the information of any Senator.

(The nominations ordered to be placed on the Executive Calendar were printed in the RECORD of June 21, 1974, at page 20516; June 24, 1974, at page 20810; July 8, 1974, at page 22306; July 11, 1974, at page 22938; and July 15, 1974, at page 23249.

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. GOLDWATER:

S. 3828. A bill for the relief of Wai Wing Ng. Referred to the Committee on the Judiciary.

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

S. 3829. A bill to authorize the Secretary of the Navy to transfer ownership of two naval vessels no longer needed by the Navy to the city of New York, N.Y. Referred to the Committee on Armed Services.

By Mr. ERVIN:

S. 3830. A bill to help preserve the separation of powers and to further the constitutional prerogatives of Congress by providing for congressional review of executive agreements. Referred to the Committee on Foreign Relations.

By Mr. NUNN:

S. 3831. A bill to authorize and direct the Secretary of the Army to convey to the board of regents of the University System of Georgia certain lands of the United States in Augusta, Ga. Referred to the Committee on Armed Services.

By Mr. BARTLETT:

S. 3832. A bill to prohibit amateur sports organizations from punishing members by banning them from television. Referred to the Committee on Commerce.

By Mr. TOWER (for himself and Mr. BROCK):

S. 3833. A bill to amend the Internal Revenue Code of 1954 to simplify and reform income taxes for small businesses. Referred to the Committee on Finance.

By Mr. STEVENSON:

S. 3834. A bill to grant a Federal charter to the American Political Items Collectors, Incorporated. Referred to the Committee on the Judiciary.

By Mr. HATFIELD (for himself and Mr. PACKWOOD):

S. 3835. A bill designating certain rivers in the State of Oregon as potential additions to the national wild and scenic rivers system. Referred to the Committee on Interior and Insular Affairs.

By Mr. GRAVEL:

S. 3836. A bill to authorize all American citizens and American nationals to use the recreational facilities of military installations. Referred to the Committee on Armed Services; and

S. 3837. A bill to exclude from the gross income of certain individuals the first $750 of interest received from savings account deposits. Referred to the Committee on Finance.

By Mr. PROXMIRE (for himself and Mr. MAGNUSON):

S. 3838. A bill to authorize the regulation of obligations issued by financial intitutions holding companies, and for other purposes. Referred to the Committee on Banking, Housing, and Urban Affairs.

By Mr. JOHNSTON (for himself and Mr. JACKSON):

S. 3839. A bill to amend the Land and Water Conservation Fund Act of 1965, as amended, to establish the National Historic Preservation Fund, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. NUNN:

S. 3831. A bill to authorize and direct the Secretary of the Army to convey to the Board of Regents of the University System of Georgia certain lands of the United States in Augusta, Ga. Referred to the Committee on Armed Services.

TRANSFER OF SURPLUS ARMY LAND TO AUGUSTA COLLEGE

Mr. NUNN. Mr. President, I am introducing today a bill to authorize the transfer of a parcel of land from the Department of the Army to Augusta College in Augusta, Ga. I am joined in this measure as cosponsors by the distinguished senior Senator from Georgia, Mr. TALMADGE, and by our esteemed colleague from South Carolina, Mr. THURMOND. Congressman ROBERT STEPHENS, who so ably represents Augusta and the 10th Congressional District, is introducing companion legislation in the House of Representatives.

The purpose of this bill is to facilitate the transfer of the land which is desired by both parties to the transaction. Payment of full market value is provided by the bill. There are no other competing claims to the land, and no objections to the conveyance have been voiced from any quarter. By authorizing the Secretary of the Army to make the transfer directly to the board of regents of the University of Georgia for Augusta College, the bill is merely intended to simplify, accelerate, and assure completion of the transfer.

This bill represents the completion of a process of negotiation and cooperation which goes back nearly 3 years when the first request by the college for the Army site was made. But, in fact, the story begins nearly 20 years ago.

At that time, in 1955, about 70 acres of property occupied by the Augusta Armory was declared surplus by the Army and acquired by the Richmond County Board of Education. Excluded from that transaction by the Army was about 5 acres at a corner of the tract. On this land in 1957 the Army built the present U.S. Reserve Armory which has served since as a reserve training center, as well.

In 1958 the board of education transferred the main body of the armory property to the board of regents of the University of Georgia for use by Augusta College. That same year Augusta College, then a small junior college with a history dating back to 1783, became a unit of the State university system.

The college and its new site underwent a remarkable growth and development in the succeeding 15 years. The college was transformed from a junior college into a senior institution offering first a baccalaureate program and recently graduate programs as well. Enrollment grew from less than 450 students in 1958 to over 3,900 students in 1974, drawn from throughout the central Savannah River area of Georgia and South Carolina. The State of Georgia spent over $10 million to refurbish existing structures and add new facilities, developing a campus which today has a replacement value of over $30 million. In short, in a decade and a half, Augusta College has grown ninefold into a truly important community asset and a valuable State facility serving a broad and expanding area as an essential educational resource.

Anticipating that continued growth could push enrollment beyond the 6,000 mark by 1980 and recognizing that property for expansion was virtually nonexistent in the college's landlocked residential area, Augusta College officials first turned to the Army for help with its expansion in 1971. The college asked that the adjacent 5-acre armory and training center site be transferred to it to help relieve the space problems.

The Army was sympathetic to the college request. In fact, it was finding the 5-acre site smaller than it needed for its own expansion plans for the training center, but it had no suitable alternate site available. Thus began a cooperative effort extending to the present to find a mutually acceptable solution to the joint problem of relocation.

I do not intend to recount the efforts that have been required over the last 3 years to find the happy answer. Suffice it to say that it has been found through the determined efforts of the college under its able president, Dr. George Christenberry; through the unstinting cooperation of the Army, locally and in Washington; through the understanding and support of local and State officials and the assistance of Federal agencies; and with a boost where needed from Senator TALMADGE, Senator THURMOND, Congressman STEPHENS, and my own office.

The Army now has fine site in Augusta on which to relocate its expanded Reserve training center. Augusta College is moving ahead with plans to utilize the present site, and the transfer has been endorsed by all interested parties. The next step required is enactment of the authorizing legislation I am introducing today. I hope that the legislative wheels will roll smoothly and rapidly to passage so that we may soon set the seal of Federal approval on this fine example of cooperation, civilian and military, local, State, and Federal.

By Mr. BARTLETT:

S. 3832. A bill to prohibit amateur sports organizations from punishing members by banning them from television. Referred to the Committee on Commerce.

Mr. BARTLETT. Mr. President, last year the University of Oklahoma advised the Big Eight Conference and the NCAA that they were guilty of a recruiting violation involving a member of their football team.

O.U. admitted that a player's high school transcript had been altered to make him eligible to participate in football his freshman year.

The facts of the case indicate that the player involved had no knowledge of the violation. The transcript was altered by one of the player's high school coaching staff but with the acquiescence of one coach at the University of Oklahoma.

Upon learning the facts the university immediately asked the coach involved to resign, which he did, and the player was declared ineligible pending the Big Eight and NCAA investigation.

Ultimately the Big Eight and NCAA came down with sanctions which included the ineligibility of the player during the 1973 season, the university was denied the right to go to a bowl game after both the 1973 and 1974 seasons, and last the university could not appear on television during the 1974 and 1975 seasons.

First I must say that the violation can in no way be condoned or excused. It was dishonest, and the people involved set a poor example for the young people they were ostensibly teaching and leading.

However, I feel the NCAA and the Big Eight far exceeded justice in the punishment which was meted out.

I believe that the punishment should fit the crime, and innocent parties should not be forced to suffer with the guilty.

The irony of it all is that the only persons now being punished are those innocent of any wrongdoing. As a matter of fact, the head football coach at O.U., Mr. Barry Switzer, was given a lie detector test by the Oklahoma Crime Bureau, and it showed not only was he not involved in the transcript alteration, but that he had never been guilty of any recruiting violation.

I see clear justification for punishing a school in addition to the actual guilty party. The university should bear responsibility for policing their own employees, but, the great injustice in the NCAA and the Big Eight system of punishment is the denial of a school's

right to be on television, because here the primary recipient of the sanction is not the guilty coach or a player who might be involved, but the victim is the innocent general public.

For instance, in the case of the University of Oklahoma, they offered to forgo any revenue from television if their punishment did not include a TV ban.

This would have made sense. The university would have lost hundreds of thousands of dollars television revenue, but the public and albeit the innocent coaches, students, and players of the team would not be unfairly blacked out.

It appears unfair to me that, though television is banned for 1974 and 1975, radio and the printed media are permitted.

It might be questioned what authority the Congress has to intervene in intercollegiate sports activities. Ordinarily I would say none. However, my bill deals only with an organization's authority to interfere with the broadcast of an event over the airwaves—a matter of traditional concern by the Congress with its legislative authority over the FCC.

In 1973, the Congress took action to make certain the public had more opportunity to witness televised football games.

I would urge the Congress to take action on this bill. The many, many persons who cannot afford to buy $9 tickets to any athletic event should not be denied the opportunity to witness the sport via television because of the guilt of one man. The punishment far exceeds the ligitimate punishment of the guilty.

By Mr. TOWER (for himself and Mr. BROCK):

S. 3833. A bill to amend the Internal Revenue Code of 1954 to simplify and reform income taxes for small businesses. Referred to the Committee on Finance.

Mr. TOWER. Mr. President, on behalf of myself and the distinguished Senator from Tennessee (Mr. BROCK), I am today introducing a bill which will focus the attention of Congress on the tax problems faced by small businessmen and the need to simplify and reform the income taxation of small businesses.

It is our concern that the backbone of our economy, the small business community, has been the victim of neglect by Congress for many years. The creation of subchapter S corporations in 1958 was the last positive example of any affirmative action taken on the particular tax problems confronting small businessmen.

Recently the President called on the American business community to increase productivity as a step toward prosperity without inflation. The small business sector is ready to respond, yet the complexities of our tax laws and regulations coupled with their failure, in several instances, to keep pace with our changing economic climate has created a frustrating maze not conducive to economic growth and development. What is needed are measures that realistically deal with the problems of a depreciated dollar, capital investment and overly complex tax laws, thereby stimulating the flow of money and people into the small business sector.

It is time for Congress to remove the stumbling block to small business formation by acting expediently and judiciously to correct the inequities in our tax laws. We believe that our bill is a substantial step in this direction.

Our proposal would:

Provide for tax simplification relating to small business.

Increase the corporate surtax exemption.

Provide encouragement for the establishment of new small business enterprises.

Provide assistance for the growth of small business.

Simplify and improve the effectiveness of subchapter S.

We commend the initiative taken by our colleagues, particularly the pioneering work of the distinguished Senator from Nevada (Mr. BIBLE), in the small business area and welcome others to join as we add our voice to rising bipartisan call for small business tax simplification and reform.

Mr. President, I ask unanimous consent that a section-by-section analysis of the Small Business Tax Reform Act of 1974 and the text of my bill be printed in the RECORD at the conclusion of my remarks.

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

SECTION-BY-SECTION ANALYSIS OF THE SMALL BUSINESS TAX REFORM ACT OF 1974

TITLE I—TAX SIMPLIFICATION RELATING TO SMALL BUSINESS

Sections 101 and 102 provide for a study by Treasury and report to Congress on the desirability of providing special depreciation rules for small business and for changes in the Tax Code to equate the treatment of fringe benefits as between incorporated and unincorporated small businesses.

Section 103 relieves small taxpayers from the burden of too frequent payment of certain employment and excise taxes.

TITLE II—INCREASE OF SURTAX EXEMPTION

Section 201 increases the corporate surtax exemption from $25,000 to $100,000.

TITLE III—SPECIAL PROVISIONS TO ENCOURAGE ESTABLISHMENT OF NEW SMALL BUSINESS

Section 301 would extend to partnership the option now enjoyed by corporations, to amortize their organization expenses over 60 months.

Section 302 would equate the tax treatment of lenders to or quarantors of business obligations, whether the businesses are incorporated or not, by extending the ordinary loss rule presently applicable to unincorporated business lending.

Section 303 would update incentives to invest small businesses by increasing from $25,000 to $50,000 the amount of allowable losses resulting from the purchase of section 1244 stock.

A second provision of this section would expand the definition of a "small business corporation" authorized to issue such stock from $1 million to $1,500,000 in "equity capital" as defined by the section.

This subsection would have the effect of allowing previously ineligible corporations with equity capital of between $1 million and $1,500,000 to issue 1244 stock in the amount of $750,000 (compared with $500,000 under the present section) and to permit previously eligible small business corporations to issue stock up to the $750,000 amount, if they are otherwise in compliance with the applicable rules.

Further provisions would enlarge the time within which a section 1244 plan must be executed and would preclude stock options to employees from disqualifying such a stock issue.

Another subsection would promote awareness of section 1244 benefits to newer firms by encouraging an entry on the tax return. Filing a copy of the plan with the return as optionally provided would have additional benefits of stabilizing its timing and content.

TITLE IV—PROVISIONS TO ASSIST SMALL BUSINESS GROWTH

Section 401 would increase additional first-year depreciation from $10,000 to $20,000 in accordance with increases in the cost of living and doing business since the section was previously revised in 1958.

Section 402 would extend the period and flexibility in use of loss carryover provision for small business by allowing existing corporations to carry losses forward up to 10 years at their option.

Section 403 would increase from $100,000 to $200,000 the minimum accumulated earnings credit for all corporations. The accumulated tax rate on improperly accumulated earnings is reduced to 22 percent from 27½ percent on the first $100,000 and 38½ percent on amounts in excess of $100,000. The section also increases from 75 to 90 days following the close of the taxable year the period in which dividend payments may be designated as dividends paid during the taxable year.

Section 404 would allow all corporations to amortize certain expenditures incident to the issuance or registration of stock or to the listing of such stock on a regional exchange.

Section 405 would allow research and development expenses to be amortized beginning at the time they are made rather than waiting until the taxpayer "first realizes benefits" from these expenditures.

TITLE V—PROVISIONS RELATING TO SUBCHAPTER S CORPORATIONS

Section 501 would allow enlargement of the Subchapter S "tax-option" small business corporations in the following 3 ways: (1) initial shareholders could number 15, rather than the present 10; (2) shareholders in excess of this ceiling who take their stock by reason of heirship would not disqualify election; and (3) after 5 years, the number of permissible shareholders would increase to 25, broadening possibilities for motivating employees by way of stock options and for infusion of fresh capital for the expansion.

Section 502 would expand classes of shareholders to include: (a) trusts where stock passes pursuant to a will, and where the trust is used merely to convey the stock to a long-term eligible holder within 60 days; (b) trusts where the entire income is taxable to the grantor; and (c) small business investment companies, subject to the elimination of the dividends payed credit on such income.

Section 503—Under the present law, a new shareholder can void the Subchapter S election for himself, the corporation, and all other shareholders. Under the rule proposed by section 503, a new shareholder would stand on the same footing as all other shareholders, and any 51 percent of the stock ownership could revoke the election.

Section 504 provides additionally for nondisqualification of a Subchapter S corporation by reason of exceeding the limit of 20 percent passive income in a single year. The election privilege could still be lost pursuant to this proposal if the limit is exceeded in any 2 of 4 consecutive years.

Section 505 would relieve considerable pressure on small business corporations in the event there has been a termination of status because of events beyond its control. If the corporation is able to establish that

the termination was, in fact, inadvertent and can gain full compliance within 90 days of notification, its Subchapter S status would be preserved for future years.

Section 506 would equate carryover treatment of Subchapter S loans in excess of basis under 1374(c) with those of partnerships under section 704(d). Thus, if the basis was rebuilt in a future year, the excess loss would become available as a current deduction.

S. 3833

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

Section 1. Short title

(a) Short Title.—This Act may be cited as the "Small Business Tax Reform Act of 1974".

(b) Table of Contents.—

TITLE I—TAX SIMPLIFICATION RELATING TO SMALL BUSINESS
Sec. 101. Revision of depreciation policy.
Sec. 102. Equalization of treatment of fringe benefits as between incorporated and unincorporated small businesses.
Sec. 103. Frequency of collection of certain employment and excise taxes.
TITLE II—INCREASE OF CORPORATE SURTAX EXEMPTION
Sec. 201. Increase of exemption.
Sec. 202. Conforming amendments.
TITLE III—SPECIAL PROVISIONS TO ENCOURAGE ESTABLISHMENT OF NEW SMALL BUSINESS ENTERPRISES
Sec. 301. Deduction of organizational expenses of partnership.
Sec. 302. Bad debt deduction for guarantors of obligations of, and lenders to, small business corporations.
Sec. 303. Losses on small business stock.
TITLE IV—PROVISIONS TO ASSIST SMALL BUSINESS GROWTH
Sec. 401. Increase in additional first-year depreciation allowance.
Sec. 402. 10 year carryover of small business net operating losses.
Sec. 403. Accumulated earnings tax.
Sec. 404. Amortization of expenditures incident to issuance of stock.
Sec. 405. Period for amortization of research and experimental expenditures.
TITLE V—PROVISIONS RELATING TO SUBCHAPTER S CORPORATIONS
Sec. 501. Increasing number of permissible shareholders.
Sec. 502. Broadening classes of permissible shareholders.
Sec. 503. Termination of election by majority.
Sec. 504. Termination of election—passive investment income.
Sec. 505. Termination of election—inadvertence.
Sec. 506. Carryover of disallowed deductions for corporation's net operating loss.

(c) Amendment of 1954 Code.—Except as otherwise expressly provided, whenever in this Act, an amendment is expressed in terms of an amendment to a section or other provision, the reference is to a section or other provision of the Internal Revenue Code of 1954.

(d) Effective date.—Except as otherwise specified, the amendments to the Internal Revenue Code of 1954 made by this Act apply to taxable years beginning after the date of the enactment of this Act.

TITLE I—TAX SIMPLIFICATION RELATING TO SMALL BUSINESS

Sec. 101. Revision of depreciation policy.

(a) The Secretary of the Treasury shall study, with the assistance of the Administrator of the Small Business Administration, and report thereon to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate, the effect on small business of those provisions of the Internal Revenue Code of 1954 relating to the depreciation of property and the desirability of providing special treatment for small business under such provisions. In making such study, the Secretary shall take into consideration—

(1) the effect of the credit for investment in depreciable property on capital formation by small business,

(2) the need of small business to be able to take advantage of rapid technological advances,

(3) the necessity for simplicity in the application of the depreciation provisions to small business, and

(4) the desirability of providing treatment for small business in the United States comparable to the treatment provided under the tax laws of other advanced countries for small business in those countries.

(b) The report required by subsection (a) shall be submitted as soon as practicable, but not later than one year after the date of the enactment of this Act.

Sec. 102. Equalization of treatment of fringe benefits as between incorporated and unincorporated small businesses.

(a) The Secretary of the Treasury, with the assistance of the Administrator of the Small Business Administration, shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate recommendations for changes in the Internal Revenue Code of 1954 so as to provide equal tax benefits for all small business enterprises, whether incorporated or unincorporated, resulting from the application of the provisions of the Code relating to qualified pension, profitsharing and stock bonus plans, health and accidents plans, and wage continuation plans.

(b) The recommendations required by subsection (a) shall be submitted as soon as practicable, but not later than one year after the date of the enactment of this Act.

Sec. 103. Frequency of collection of certain employment and excise taxes.

(a) Small Taxpayers Not to be Required to Make Payments More Often Than Monthly.—Section 6302 (relating to mode or time of collection) is amended by adding at the end thereof the following new subsection:

"(d) Collection of Certain Employment and Excise Taxes.—If, during a calendar month, the aggregate of the amount of—

"(1) taxes deducted under section 3102 from wages paid by a person,

"(2) taxes imposed under section 3111 on wages paid by such person,

"(3) taxes deducted and withheld under section 3402 upon wages paid by such person, and

"(4) taxes imposed under chapters 31 and 32 with respect to sales by such person,

does not exceed $10,000,

the Secretary or his delegate may not require such person to pay or deposit such taxes more than one time during such month."

(b) Effective Date.—The amendment made by subsection (a) shall take effect on the first day of the first calendar quarter beginning more than 30 days after the date of the enactment of this Act.

TITLE II—INCREASE OF CORPORATE SURTAX EXEMPTION

Sec. 201. Increase of exemption.

Section 11 (d) (relating to surtax exemption) is amended by striking out "$25,000" and inserting in lieu thereof "$100,000".

Sec. 202. Conforming amendments.

(a) The following provisions are amended by striking out "$25,000" and inserting in lieu thereof "$100,000" each place it appears therein:

(1) section 12 (7) (relating to cross references relating to tax on corporations),

(2) section 962 (c) (relating to election by individuals to be subject to tax at corporate rates),

(3) section 1561 (relating to surtax exemptions in case of certain controlled corporations) (as in effect for taxable years beginning before 1975),

(4) section 1561 (a) (1) (relating to limitations on certain multiple tax benefits in the case of certain controlled corporations) (as in effect for taxable years beginning after 1974), and

(5) section 1564 (a) (1) (A) (relating to transitional rules in the case of certain controlled corporations).

(b) The table contained in section 1564 (a) (1) is amended by striking out "4,167" in the column headed "Surtax exemption" and inserting in lieu thereof "16,667".

TITLE III—SPECIAL PROVISIONS TO ENCOURAGE ESTABLISHMENT OF NEW SMALL BUSINESS ENTERPRISES

Sec. 301. Deduction of organizational expenses of partnership.

Section 703 (relating to the computation of the taxable income of a partnership) is amended by adding at the end thereof the following new subsection:

"(c) ORGANIZATIONAL EXPENSES.—

"(1) GENERAL RULE.—A deduction shall be allowed to the partnership for organizational expenses (as defined in paragraph (2)) ratably over a period of 60 months beginning in the month in which such expenses were paid or accrued, except that in the event the partnership is considered as terminated under section 708(b) any organizational expenses not previously allowed shall be allowed for the taxable year in which it is so considered to be terminated.

"(2) DEFINITION.—For purposes of this subsection, the term 'organizational expenses' means any expense of a character which, if expended incident to the creation of a corporation having a limited life, would be amortizable over such life and which is incident to—

"(A) the creation of a new partnership;

"(B) the preparation of a partnership agreement for a partnership;

"(C) the amendment of an existing partnership agreement; or

"(D) the preparation or amendment of any agreement relating to the transfer or retirement of an interest in a partnership."

Sec. 302. Bad debt deduction for guarantors of obligations of, and lenders to, small business corporations.

(a) GUARANTORS OF OBLIGATIONS OF SMALL BUSINESS CORPORATIONS.—Section 166(f) (relating to guarantors of certain noncorporate obligations) is amended to read as follows:

"(f) GUARANTOR OF CERTAIN NONCORPORATE OBLIGATIONS AND OBLIGATIONS OF SMALL BUSINESS CORPORATIONS.—

"(1) IN GENERAL.—A payment during the taxable year by the taxpayer (other than a corporation) in discharge of part or all of his obligation as a guarantor, endorser, or indemnitor of—

"(A) a noncorporate obligation; or

"(B) an obligation of a corporation which (at the time such obligaton is incurred) is a small business corporation,

the proceeds of which were used in the trade or business of the borrower shall be treated as a debt becoming worthless within such taxable year for purposes of this section (except that subsection (d) shall not apply), but only if the obligation of the borrower to the person to whom such payment was made was worthless (without regard to such guaranty, endorsement, or indemnity) at the time of such payment.

"(2) SMALL BUSINESS CORPORATION.—For purposes of paragraph (1), the term 'small business corporation' means a corporation

the equity capital of which does not exceed $1,500,000. For purposes of the preceding sentence, the equity capital of a corporation is the sum of its money and other property (in an amount equal to the adjusted basis of such property for determining gain), less the amount of its indebtedness (other than indebtedness to shareholders)."

(b) DEFINITION OF NONBUSINESS DEBTS.—Section 166(d)(2) (relating to definition of nonbusiness debt) is amended—

(1 by striking out "or" at the end of subparagraph (A):

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

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

"(C) a debt arising from a loan to—

"(i) one or more individuals, or

"(ii) a corporation which at the time such loan is made is a small business corporation (as defined in subsection (f)(2)),

the proceeds of which are used in the trade or business of the borrower or borrowers."

Sec. 303. Losses on small business stock.

(a) INCREASE IN MAXIMUM AMOUNT OF LOSSES.—Section 1244(b) (relating to limitation on application of section 1244) is amended by striking out paragraphs (1) and (2) and inserting in lieu thereof the following:

"(1) $50,000 (not more than $25,000 of which is attributable to stock acquired before the date of the enactment of the Small Business Tax Reform Act of 1974), or

"(2) in the case of a husband and wife filing a joint return for such year under section 6013, $100,000 (not more than $50,000 of which is attributable to stock acquired before such date)."

(b) DEFINITION OF SECTION 1244 STOCK.—Section 1244 (relating to losses on small business stock) is amended by redesignating subsection (e) as (g) and by inserting after subsection (d) the following new subsections:

(e) PLANS ADOPTED AFTER ENACTMENT OF SMALL BUSINESS TAX REFORM ACT OF 1974.—In the case of a plan adopted after the date of the enactment of the Small Business Tax Reform Act of 1974—

"(1) paragraph (2) of subsection (c) shall be applied by substituting—

"(A) $750,000 for $500,000 in subparagraph (A), and

"(B) $1,500,000 for $1,000,000 in subparagraph (B);

"(2) paragraph (1)(A) of subsection (c) shall be applied by substituting 5 years for 2 years;

"(3) paragraph (1)(C) of subsection (c) shall not apply with respect to a prior offering of section 1244 stock under a plan adopted on or before such date, but in applying paragraphs (2)(A)(i) and (2)(B)(i) of subsection (c) there shall be taken into account the amount of such prior offering which is outstanding on the date of the adoption of the plan; and

"(4) for purposes of paragraph (1)(C) of subsection (c), options to acquire stock held by employees of the corporation (and unissued stock necessary in case of the exercise of such options) shall not be considered to be a part of a prior offering which is outstanding.

"(f) NOTICE OF OFFERING AND ADOPTION OF PLANS.—A corporation which during the taxable year makes an offering of its stock which it believes to fulfill the requirements of subparagraphs (A), (B), and (C), of subsection (c)(1) may—

"(1) include, on its return for such year, a statement that such offering has been made and the date on which the plan for such offering was adopted, and

"(2) include a copy of such plan with such return."

TITLE IV—PROVISIONS TO ASSIST SMALL BUSINESS GROWTH

Sec. 401. Increase in additional first-year depreciation allowance.

Section 179(b) (relating to dollar limitation on property eligible for additional first-year allowance) is amended—

(1) by striking out "$10,000" each place it appears and inserting in lieu thereof "$20,000"; and

(2) by striking out "$20,000" and inserting in lieu thereof "$40,000".

Sec. 402. 10-year carryover of small business net operating losses.

(a) 10-YEAR CARRYOVER PERIOD.—Section 172(b)(1) (relating to years to which loss may be carried is amended)—

(1) by striking out "and (E)" in subparagraph (B) and inserting in lieu thereof "(E), and (H)";

(2) by adding at the end thereof the following new subparagraph:

"(H) In the case of a taxpayer which is carrying on a trade or business as a small business concern (within the meaning of the Small Business Act) determined as of the close of the taxable year, the portion of a net operating loss sustained in such trade or business shall be a net operating loss carryover to each of the 10 taxable years following the taxable year of such loss."

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to losses sustained in taxable years beginning after the date of the enactment of this Act.

Sec. 403. Accumulated earnings tax.

(a) RATE OF TAX.—Section 531 (relating to imposition of accumulated earnings tax) is amended by striking out all after "equal to" and inserting in lieu thereof "22 percent of the accumulated taxable income."

(b) MINIMUM ACCUMULATED EARNINGS CREDIT.—Section 535(c) (relating to accumulated earnings credit) is amended by striking out "$100,000" in paragraphs (2) and (3) and inserting in lieu thereof "$200,000".

(c) DIVIDEND DISTRIBUTIONS TO REDUCE TAX LIABILITY.—Part I of subchapter G of chapter 1 (relating to corporations improperly accumulating surplus) is amended by adding at the end thereof the following new section:

"Sec. 538. Payments of dividends to reduce tax liability.

"(a) DIVIDENDS PAID AFTER DETERMINATION OF TAX LIABILITY.—Whenever a final determination has been made that a corporation is liable for the tax imposed by section 531 for a taxable year, such corporation may designate any dividends paid by it within 90 days after the date of such final determination as dividends paid to obtain the benefit of this section. In determining such corporation's final liability for the tax imposed by section 531 for such taxable year, the amount of its accumulated taxable income shall be reduced by an amount equal to the dividends paid and so designated.

"(b) SPECIAL RULES.—

"(1) DIVIDENDS TO WHICH APPLICABLE.—Subsection (a) shall apply only to a dividend which meets the requirements of section 562.

"(2) SECTION 561 NOT TO APPLY.—Any dividend designated under subsection (a) as a dividend paid to obtain the benefits of this section shall not be treated as dividend for purposes of section 561.

"(c) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this section."

(d) CLERICAL AMENDMENT.—The table of sections for part I of subchapter G of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 538. Payment of dividends to reduce tax liability."

Sec. 404. Amortization of expenditures incident to issuance of stock.

Section 248(b) (relating to definition of organizational expenditures) is amended by—

(a) striking out the period at the end of paragraph (3) and inserting in lieu thereof a semicolon and "or"; and

(b) inserting the following new paragraph after paragraph (3):

"(4) is incident to the issuance or registration of stock in the corporation or to the listing of such stock on a regional exchange.".

Sec. 405. Period for amortization of research and experimental expenditures.

Section 174(b) (relating to amortization of certain research and experimental expenditures) is amended by striking out "(beginning with the month in which the taxpayer first realizes benefits from such expenditures)" in the second sentence of paragraph (1).

TITLE V—PROVISIONS RELATING TO SUBCHAPTER S CORPORATIONS

Sec. 501. Increasing number of permissible shareholders.

(a) INCREASE IN NUMBER.—Section 1371(a) (relating to definition of small business corporation) is amended by striking out "10 shareholders" in paragraph (1) and inserting in lieu thereof "15 shareholders (25 shareholders, in the case of a corporation which has been in existence for 5 or more years)".

(b) STOCK RECEIVED UPON DEATH OF SHAREHOLDERS.—Section 1371 (relating to definitions) is amended by adding at the end thereof the following new subsection:

"(e) STOCK HELD BY INDIVIDUALS BY REASON OF DEATH OF ORIGINAL SHAREHOLDERS.—Stock owned by an individual which was received by him by reason of the death of an original shareholder shall, for purposes of applying subsection (a)(1), be treated as if it were still owned by such original shareholder. For purposes of this subsection, the term 'original shareholder' means a shareholder described in section 1372(a) who is required to consent to an election under such section."

Sec. 502. Broadening classes of permissible shareholders.

(a) SMALL BUSINESS INVESTMENT COMPANIES AND CERTAIN TRUSTS.—Section 1371(a) (relating to definition of small business corporation) is amended by striking out "(other than an estate, a trust described in subsection (f), or a small business investment company operating under the Small Business Investment Act of 1958)".

(b) CERTAIN TRUSTS.—Section 1371 (relating to definitions) is amended by adding after subsection (e) (as added by sections 501(b) of this Act) the following new subsection:

"(f) CERTAIN TRUSTS PERMITTED AS SHAREHOLDERS.—For purposes of subsection (a), the following trusts may be shareholders:

"(1) A trust all of which is treated as owned by the grantor under subpart E of part I of subchapter J of this chapter.

"(2) A trust created primarily to exercise the voting power of stock transferred to it.

"(3) Any trust with respect to stock transferred to it pursuant to the terms of a will, but only for the 60-day period beginning on the day on which such stock is transferred to it.

In the case of a trust described in paragraph (2), each beneficiary of the trust shall, for purposes of subsection (a)(1), be treated as a shareholder."

(c) TECHNICAL AMENDMENTS.—Section 243(c) (relating to special rules for certain distributions) is amended by adding at the end thereof the following new paragraph:

"(5) Any dividend received by a small business investment company operating under the Small Business Investment Act of 1958 from an electing small business corporation (and any amount included in the gross income of such company which is treated as a dividend under section 1373) shall not be treated as a dividend."

Sec. 503. Termination of election by majority.

Section 1372(e) (relating to termination of election) is amended—

(1) by striking out paragraph (1);

(2) by striking out the second sentence of paragraph (2) and inserting in lieu thereof the following: "An election may be revoked only if shareholders owning more than 50 percent of the stock of the corporation on the day on which the revocation is made consent to the revocation."; and

(3) by redesignating paragraphs (2), (3), (4), and (5) as (1), (2), (3), and (4), respectively.

Sec. 504. Termination of election—passive investment income.

Section 1372(c)(5) (relating to passive investment income) is amended by striking out subparagraph (A) and inserting in lieu thereof the following:

"(A) Except as provided in subparagraph (B), an election under subsection (a) made by a small business corporation shall terminate if—

"(i) for any taxable year of the corporation for which the election is in effect, the corporation has gross receipts more than 20 percent of which is passive investment income, and

"(ii) for any of the 3 immediately preceding taxable years of the corporation for which the election is in effect, the corporation had gross receipts more than 20 percent of which was passive investment income.

Such termination shall be effective for the taxable year of the corporation described in clause (i), and for all succeeding taxable years of the corporation."

Sec. 505. Termination of election—inadvertence.

Section 1372 (relating to election by small business corporation) is amended—

(1) by striking out "An election" in the first sentence of subsection (e)(2) (as redesignated by this Act) and inserting in lieu thereof "Except as provided in subsection (h), an election"; and

(2) by adding at the end thereof the following new subsection:

"(h) CEASING TO BE SMALL BUSINESS CORPORATION THROUGH INADVERTENCE.—An election under subsection (a) made by a small business corporation which ceases to be a small business corporation shall not terminate if, after notification by the Secretary or his delegate that it has failed to meet the requirements of section 1371(a), the corporation—

"(1) establishes that such failure was inadvertent, and

"(2) within 90 days after the date on which it is so notified, completes action so as again to meet such requirements."

Sec. 596. Carryover of disallowed deductions for corporations net operating loss

Section 1374(c) (relating to determination of shareholder's portion of net operating loss) is amended by adding at the end thereof the following new paragraph:

"(3) CARRYOVER OF DISALLOWED PART.—If, by reason of the application of paragraph (2), any part of a shareholder's portion of the net operating loss of an electing small business corporation for any taxable year (as determined under paragraph (1)) is not allowable as a deduction under subsection (b) for such taxable year, such part shall, subject to the limitation contained in paragraph (2), be treated as (or be added to, as the case may be) his portion of the corporation's net operating loss for the succeeding taxable year."

SMALL BUSINESS TAX REFORM ACT OF 1974

Mr. BROCK. Mr. President, I am pleased to join the gentleman from Texas (Mr. TOWER) as a coauthor of the Small Business Tax Reform Act of 1974.

Small business is the foundation upon which our free market system rests; 19 out of 20 of the enterprises in this country are small businesses, yet, small business has been deplorably neglected. Either consciously or unconsciously Government policies have been directed toward supporting those large segments of the economy—the major corporations and national labor unions—that contribute most visibly to the gross national product.

It is high time this trend is reversed.

A good place to begin is with the Federal tax code.

Our many fine small corporations, partnerships, proprietorships, and individuals simply are unable to cope with the Federal tax laws. The forms are torturous while the tax burden too often is a disincentive for growth and increased productivity.

The Small Business Tax Reform Act would be a big step toward correcting these inequities.

First, the bill calls for tax simplifications relating to small business. The primary focus here would be to find ways to enable small business to fully receive the advantages of depreciation and fringe benefit rules enjoyed by large corporations.

The corporate surtax exemption would be increased from $25,000 to $100,000. The $25,000 corporate surtax exemption was fixed in 1938. During the past 36 years the value of this figure has been significantly eroded by inflation. The adjustment in the bill will compensate for inflation. Congress has already taken this into account in increasing the personal exemption for individuals.

Special provisions in the bill would encourage the establishment of new small businesses. Presently, small businesses find that they are disadvantaged by the intricateness and vagaries of the tax code. Relief from some of these problems would be afforded by extending to partnerships the option to amortize organization expenses; by extending to unincorporated business lending the ordinary loss rule; and by providing more favorable treatment for section 1244 stock.

Small business growth would be encouraged through a number of measures to provide for the internal generation of capital. This is currently crucial in light of the tight money market. Today, the small business firm must rely most heavily on retained earnings. To accomplish these ends the minimum accumulated earnings credit for all corporations would be increased from $100,000 to $200,000. Certain expenditures incident to the issuance or registration of stock could be amortized. Research and development expense could be amortized at the time made. Depreciation and loss carryover rules would be liberalized.

Perhaps most important are the provisions to simplify and improve the effectiveness of subchapter S. In 1958, subchapter S was included in the Revenue Act to permit small firms to select the form of business organization desired without the necessity of taking into account major differences in tax consequences. Unfortunately, subchapter S has fallen short in a number of respects of accomplishing this objective. A number of provisions in the Small Business Tax Reform Act of 1974 are designed to accomplish more nearly this objective.

In proposing the Small Business Tax Reform Act, I am cognizant of the fact that there will be some revenue reduction. I do not feel that this or any other measure which reduces revenue should be enacted until there are equivalent cuts in Federal expenditures. Otherwise, any gains would be eaten up by inflation. Inflation hits the small businessman particularly hard. I am hopeful that my Budget Reform Act which has now been signed into law will be effective in reducing the level of Government expenditures and pave the way for this much needed tax reform measure.

By Mr. STEVENSON:

S. 3834. A bill to grant a Federal charter to the American Political Items Collectors, Incorporated. Referred to the Committee on the Judiciary.

Mr. STEVENSON. Mr. President, I am today introducing legislation which would provide a Federal charter to the American Political Items Collectors.

The American Political Items Collectors, or APIC, is a nonpartisan national organization dedicated to the collection and preservation of the artifacts of America's political heritage. Organized in 1945, APIC now has over 2,000 active members, from all walks of life, located in all 50 States. I am a member of APIC, and a constituent of mine, Larry Krug of Villa Park, Ill., is APIC's president.

Through educational projects, programs, and research publications, APIC has been a leader in expanding the knowledge of Americans about our political process. APIC is expanding its educational efforts for the Revolutionary Bicentennial through close cooperation with State Bicentennial commissions. But this is a continuing commitment and the organization intends to work long after the Bicentennial has passed into history.

APIC is a national organization dedicated to preserving American political history on a national level, and for this reason I believe consideration should be given to providing APIC a Federal charter.

By Mr. GRAVEL:

S. 3837. A bill to exclude from the gross income of certain individuals the first $750 of interest received from savings account deposits. Referred to the Committee on Finance.

INDIVIDUAL SAVER'S INCENTIVE ACT

Mr. GRAVEL. Mr. President, the purpose of this bill is to encourage individual savings and to reduce the inflationary pressures in our economy. The bill would exempt from the personal income

tax of any person earning less than $20,000 the first $750 of interest income received from savings account deposits.

There is already an exclusion for the first $100 of dividend income which provides an incentive for investment in common stock. The economy is plagued by shortages and inflation. Expanding our industrial capacity is essential to our anti-inflation battle. Capital investment in job creating new plants and equipment must result from increased savings. A direct way to increase the supply of capital which may be invested in new plants and equipment is to encourage more people to save money. There are few incentives to save, however, when there is a prevailing attitude of "spending today because tomorrow's prices will be higher." This bill would help to stem the flight of money out of savings accounts and thereby provide more needed capital for investment in housing, in industry, in energy projects and in other areas of our economy where shortages exist.

Savings and loans institutions are experiencing disintermediation—an outflow of savings—to other, higher-yielding debt instruments. This is drying up funds in the housing market. The short supply of mortgage money has sent homebuyers' interest rates to record levels. This bill would stimulate the housing market and preserve a competitive savings and loans industry.

Another purpose of this bill is to provide some relief for the retired person who must live on the interest from his life savings. With the prevailing double-digit rate of inflation, the person with interest income is barely earning one-half the inflation rate. This bill would protect the pensioners and other people who rely on savings from the ranges of inflation and allow them to enjoy the fruit of their earlier labor. The bill would not, however, provide a windfall to those who can afford to protect themselves from inflation, because the exemption applies only to those with gross incomes less than $20,000.

By Mr. JOHNSTON (for himself and Mr. JACKSON):

S. 3839. A bill to amend the Land and Water Conservation Fund Act of 1965, as amended, to establish the National Historic Preservation Fund, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

Mr. JOHNSTON. Mr. President, I am introducing today, on behalf of the junior Senator from Washington (Mr. JACKSON) and myself, legislation that I believe is an important step forward in providing adequate funds to the States for a new program for the ecquisition of critically needed land areas, both urban and rural, and for the preservation of examples of our fast-disappearing historic heritage. The legislation also would provide additional funding for existing recreational programs presently funded through the Land and Water Conservation Fund.

Specifically, the legislation would do the following:

First, title I of this legislation would increase the authorized annual ceiling for the Land and Water Conservation Fund from $300 million to $750 million. The legislation specifies that of this amount, two-thirds will be available for the present purposes of the Fund. This would provide a total of $200 million annually to assist the Federal land managing agencies in rounding out their recreation estates, and a total of $300 million to be used on a 50 Federal–50 State match ratio for State and local land acquisition and development.

Second, $250 million annually would be made available to the States out of the fund on a 30 State–70 Federal match basis. These moneys would be used for the acquisition of urban area land that has value for park and recreation purposes, for conservation of land and other natural resources, and for historic, architectural or scenic purposes. These moneys also would be available for the acquisition by the States on the 30–70 basis of fragile or historic lands where uncontrolled or incompatible development could result in substantial damage to such lands. These lands would include shorelands, rare or valuable ecosystems and geological formations, significant wildlife habitats, wilderness areas and wetlands.

Third, title II of the legislation creates a National Historic Preservation Fund to meet the funding needs of the National Historic Preservation Act of 1966. The Fund would derive its revenues from the sale of our renewable resources under the Mineral Leasing Act of 1920, as amended, and the Outer Continental Shelf Lands Act, and would provide up to $150 million annually to match State preservation expenditures under the National Historic Preservation Act.

Mr. President, I believe the legislation that I have just described is greatly needed—and needed now. Everyday we lose 3,000 acres of land to development. The Federal Government must act now if we are to save our open spaces and historic and fragile areas from absorption by urban sprawl. Our present programs are not adequate to deal with the situation that confronts us. The legislation I am introducing today will, I believe, provide a significant stimulus to the action that the Federal Government and the States must now take to meet the conservation challenge we now face.

A little background information may be helpful in analyzing our present situation. In the 10 years since its creation, the Federal Land and Water Conservation Fund has provided over $1.7 billion for parks and recreation. The fund has enabled Federal, State and local agencies to protect, preserve, and conserve some of the Nation's most valuable lands and waters for use and enjoyment by the citizens of this Nation; but the task is far from accomplished. We need to acquire and protect significant natural areas pressured by sprawling development. Because our historic and cultural heritage is the tangible evidence of the continuity among the generations of man, we need a substantial, continuing program of historic preservation. And, we need to acquire and develop recreational areas and facilities to meet America's expanding demands for outdoor recreation opportunities.

The recreation land managing agencies of the Department of the Interior have identified existing acquisition needs at $425 million. The U.S. Forest Service also has substantial financial needs for land acquisition.

The States have demonstrated the capacity and desire to accelerate their outdoor recreation land acquisition and development programs. They have projected their needs for recreational land acquisition and development and historic preservation through 1989 to be in excess of $40 billion.

The legislation which I am introducing today will help to meet those needs.

This legislation recognizes the ever-increasing pressures of our finite land base and subsequent rapid land price escalation. If we are to preserve the remaining pieces of our natural heritage, we must act now before rising costs and irreversible development preempt outdoor recreation considerations.

We must strengthen the tools through which public agencies acquire and protect outdoor America. That is precisely what this legislation will accomplish by expanding and strengthening the Land and Water Conservation Fund, and by providing for the creation of a National Historic Preservation Fund.

The increase for Federal land acquisition is essential to acquire already authorized Federal outdoor recreation lands and proposed national areas pending final legislation. The National Park Service alone needs $250 million to acquire its backlog of authorized areas. In the immedate future, the Park Service may need an additional $175 million to purchase new outdoor recreation lands in Big Cypress and Big Thicket.

The Bureau of Sport Fisheries and Wildlife needs $165 million to acquire already authorized areas. B.S.F. & W. utilizes Fund moneys to preserve endangered species through acquisition of valuable habitat, and to provide recreation areas in the National Wildlife Refuge System and national fish hatcheries.

The Bureau of Land Management has identified acquisition needs at $12 million to acquire authorized lands along National Wild and Scenic Rivers, trails, and national conservation areas. And the Forest Service has sizable financial needs to acquire already authorized areas in national forests.

The expansion of funding for Water Conservation Fund from $300 million to $500 million will help meet these pressing needs.

The proposed 70 Federal/30 State grant program for land acquisition in urban areas and for acquisition of fragile or historic lands will meet a different need. This program recognizes that the critical areas that most require preservation are often the most expensive. I already have noted the daily loss of land to development. The pressures on our remaining open space lands are enormous, and the States just do not have sufficient funds to deal with this development.

Finally, by establishing the National Historic Preservation Fund to provide $150 million annually to meet the objectives of the National Historic Preservation Act of 1966, we are meeting funding needs that are overwhelming. The

States will have over $150 million available next fiscal year to match Federal funds for historic preservation. Yet only $24.4 million presently is authorized for such grants. The States have shown tremendous interest in preserving the great historical heritage that we have in this country. I propose no more than that the Federal Government at least match the $150 million the States are ready to provide for historic preservation.

Mr. President, we now recognize that America's land and waters are finite. With increasing population and expanding demands upon the land and its resources, we must realize that there is an immediate need to set aside those areas which should be preserved for future citizens of this country. If we hope to provide a legacy of parks and recreational areas for future generations, we must act quickly and effectively.

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

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

S. 3839

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Land and Water Conservation Fund Act of 1965 (78 Stat. 897) as amended (16 U.S.C. 4601–4 *et seq.*), is further amended as follows:

(a) In clause (1) of section 2(c) strike out "and not less than $300,000,000 for each fiscal year thereafter through June 30, 1989" and insert in lieu thereof "not less than $300,000,000 for each of the fiscal years 1971 through 1974, and not less than $750,000,000 for each of the fiscal years thereafter through June 30, 1989". In clause (2) of section 2(c) strike out "or $300,000,000" and insert in lieu thereof", $300,000,000 or $750,000,000".

(b) After clause (2) of section 2(c) insert the following new clauses:

"(3) of the $750,000,000 authorized to be credited to the fund for each of the fiscal years 1975 through 1989 under clause (2) a sum of $250,000,000 shall be set aside each year in a special account in the Treasury of the United States to be administered in conjunction with, but separate from, the revenues in the Land and Water Conservation Fund. The revenues in this special account each year shall be available for appropriation, in addition to appropriations authorized for the same purposes under any other law, to the Secretary of the Interior for grants to the States and through the States to local public bodies, under the terms and conditions specified in section 6 (f) of this Act or such other terms and conditions as the Secretary may prescribe, to finance not more than 70 per centum of acquiring open space land in urban areas, and fragile or historic lands, and the remaining share of such cost shall be borne by the State in a manner and with such funds or services as shall be satisfactory to the Secetary. The appropriations made pursuant to this clause shall be available to the Secretary for administrative expenses and to provide technical assistance in connection with the grants authorized by such clause, and shall remain available until expended.

"(4) the appropriations made pursuant to clause (3) of this subsection shall be allocated to the States by the Secretary on the basis of needs as determined by him, except that the total allocation to an individual State shall not exceed 10 per centum of the total amount allocated to the several States in any one year. Any amount of any fiscal year allocation which has not been paid or obligated by the Secretary at the end of two succeeding fiscal years shall be allocated to the States without regard to such 10 per centum limitation.

"(5) As used in clause (3) of this subsection the term—

"(i) 'Fragile or historic lands' means those areas identified by the State in the comprehensive statewide plan required by subsection 6(d) as areas of critical environmental concern where uncontrolled or incompatible development could result in substantial damage to important historic, cultural, scientific, or esthetic values or natural systems that are of more than local significance, such lands to include shorelands, rare or valuable ecosystems and geological formations, significant wildlife habitats, wilderness areas and wetlands.

"(ii) 'Local public body' means any public body (including a political subdivision) created by or under the laws of a State or two or more States, or a combination of such bodies, and includes recognized Indian tribes.

"(iii) 'Open space land' means any land located in an urban area and which has value for park and recreational purposes, for conservation of land and other natural resources, or for historic, architectural, or scenic purposes.

"(iv) 'Urban area' means any area which is urban in character, including those surrounding areas which, in the judgment of the Secretary, form an economic and socially related region, taking into consideration such factors as present and future population trends and patterns of urban growth, location of transportation facilities and systems, and distribution of industrial, commercial, residential, governmental, institutional, and other activities.

(c) In the third sentence of section 6(b), delete "7" and substitute "10", and at the end of the fifth sentence of said section, change the period to a comma and add "without regard to the 10 per centum limitation to an individual State specified in this subsection."

(d) In section 6(e) delete the paragraph numbered (2) and substitute the following paragraph:

"(2) DEVELOPMENT.—For development of basic outdoor recreation facilities to serve the general public, including development of Federal lands under lease to States for terms of twenty-five years or more: Provided, however, that not more than 25 per centum of the total amount allocated to a State in any one year may be approved by the Secretary for the development of sheltered facilities for recreation activities normally pursued outdoors when unavailability of land or climatic conditions provide no other feasible or prudent alternative to serve identified unmet demands for recreation resources."

TITLE II—NATIONAL HISTORIC PRESERVATION FUND

The Act of October 15, 1966 (80 Stat. 915), as amended (16 U.S.C. 470) is amended as follows:

(a) Amend section 103(a) by deleting *"Provided, however,* That the amount granted to any one State shall not exceed 50 per centum of the total cost of the comprehensive statewide historic survey and plan for the State, as determined by the Secretary," and insert in lieu thereof: *"Provided,* That the Secretary may, in his discretion waive the requirements of paragraph (3) of subsection (a) of section 102 of this Act for the purposes of making grants for the preparation of statewide historic preservation plans and project plans, but any such grant shall not exceed 70 per centum of the cost of such plans."

(b) Amend section 108 to read as follows:

"Section 108. To carry out the provisions of this Act, there is hereby established in the Treasury of the United States a special fund to be known as the National Historic Preservation Fund (hereafter referred to as the 'Fund'). During the period commencing July 1, 1974, and ending June 30, 1979, there shall be covered into such Fund $150,000,000 annually from revenues due and payable to the United States under the Outer Continental Shelf Lands Act (67 Stat. 462, 469), as amended (43 U.S.C. 1338), and/or under the Act of June 4, 1920 (41 Stat. 813), as amended (30 U.S.C. 191), which otherwise would be credited to miscellaneous receipts of the Treasury. Such moneys shall be used only to carry out the purposes of this Act. Moneys covered into the Fund shall be available for expenditure only when appropriated therefor. Any moneys not appropriated shall remain available in the Fund until appropriated for said purposes: *Provided,* That appropriations made pursuant to this paragraph may be made without fiscal year limitation."

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 2790

At the request of Mr. BURDICK, the Senator from Minnesota (Mr. MONDALE) was added as a cosponsor of S. 2790 to amend the Internal Revenue Code of 1954 to provide that the tax on the amounts paid for communication services shall not apply to the amount of the State and local taxes paid for such services.

S. 2938

At the request of Mr. JACKSON, the Senator from South Dakota (Mr. MCGOVERN) was added as a cosponsor of S. 2938 to implement the Federal responsibility for the care and education of the Indian people by improving the services and facilities of Federal Indian health programs and encouraging maximum participation of Indians in such programs, and for other purposes.

S. 3154

At the request of Mr. RIBICOFF, the Senator from Colorado (Mr. HASKELL) and the Senator from Minnesota (Mr. HUMPHREY) were added as cosponsors to S. 3154, the Comprehensive Medicare Reform Act.

S. 3305

At the request of Mr. CLARK, the Senator from Minnesota (Mr. HUMPHREY) was added as a cosponsor of S. 3305, the National Huntington's Disease Control Act.

S. 3418

At the request of Mr. ERVIN, the Senator from Connecticut (Mr. RIBICOFF) was added as a cosponsor of S. 3418 to establish a Federal Privacy Board to oversee the gathering and disclosure of information concerning individuals, to provide management systems in Federal agencies, State and local governments, and other organizations regarding such information, and for other purposes.

S. 3431

At the request of Mr. CLARK, the Senator from South Dakota (Mr. MCGOVERN) was added as a cosponsor of S. 3431, the Young Farmers Investment Act.

S. 3463

At the request of Mr. PASTORE, the Senator from Alaska (Mr. STEVENS) was added as a cosponsor of S. 3463 to amend the Communications Act of 1934 to re-

lieve broadcasters of the equal time requirement of section 315 with respect to candidates for President and Vice President.

S. 3480

At the request of Mr. TUNNEY, the Senator from Pennsylvania (Mr. HUGH SCOTT) was added as a cosponsor of S. 3480 to authorize a national summer youth sports program.

S. 3507

At the request of Mr. PERCY, the Senator from Alaska (Mr. GRAVEL) was added as a cosponsor of S. 3507 to amend the Social Security Act so as to make permanent certain temporary provisions relating to inspections of long-term care institutions, to provide for the publication of certain information regarding such institutions, and requiring that such institutions provide certain training for their nonprofessional employees as a condition of participation in the medicare and medicaid programs.

S. 3571

At the request of Mr. PERCY, the Senator from Tennessee (Mr. BROCK) was added as a cosponsor of S. 3571 to amend the Internal Revenue Code of 1954 to allow a deferment of income taxes to individuals for certain higher education expenses.

S. 3572

At the request of Mr. PERCY, the Senator from Tennessee (Mr. BROCK) was added as a cosponsor of S. 3572 to amend the Higher Education Act of 1965 to provide that certain loans under that act cannot be discharged in bankruptcy proceedings for 5 years, and for other purposes.

S. 3601

At the request of Mr. BENTSEN, the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of S. 3601, the Urban Public Transportation Act of 1974.

S. 3644

At the request of Mr. INOUYE, the Senator from Tennessee (Mr. BROCK) was added as a cosponsor of S. 3644 to amend the Social Security Act to provide for inclusion of the services of licensed (registered) nurse practitioners under medicare and medicaid.

S. 3645

At the request of Mr. INOUYE, the Senator from Minnesota (Mr. HUMPHREY), the Senator from New York (Mr. JAVITS), the Senator from Minnesota (Mr. MONDALE), and the Senator from Pennsylvania (Mr. SCHWEIKER) were added as cosponsors of S. 3645 to amend title XVIII of the Social Security Act to provide for the coverage of certain psychologists' services under the supplementary medical insurance benefits program established by part B of such title.

S. 3648

At the request of Mr. TUNNEY, the Senator from Iowa (Mr. HUGHES) was added as a cosponsor of S. 3648 to amend the Urban Mass Transportation Act of 1964 to insure that transportation facilities built and rolling stock purchased with Federal funds are designed and constructed to be accessible to the physically handicapped and the elderly.

S. 3649

At the request of Mr. PELL, the Senator from Iowa (Mr. HUGHES) was added as a cosponsor of S. 3649, the Social Security Recipients Fairness Act.

S. 3688

At the request of Mr. SCHWEIKER, the Senator from Pennsylvania (Mr. SCOTT) was added as a cosponsor of S. 3688 to amend the Wild and Scenic Rivers Act of 1968 by designating a portion of the Allegheny River, Pennsylvania, for potential addition to the National Wild and Scenic Rivers System.

SENATE RESOLUTION 371—SUBMISSION OF A RESOLUTION TO PERMIT TELEVISION AND RADIO COVERAGE OF IMPEACHMENT TRIAL

(Referred to the Committee on Rules and Administration.)

Mr. ROBERT C. BYRD (for himself and Mr. MANSFIELD) submitted the following resolution:

S. RES. 371

Resolved, That, in the event that the House of Representatives should impeach President Richard M. Nixon, the proceedings of the Senate with respect to the trial of impeachment of the President may be broadcast.

ADDITIONAL COSPONSOR OF A RESOLUTION

SENATE RESOLUTION 352

At the request of Mr. Moss, the Senator from Nebraska (Mr. HRUSKA) was added as a cosponsor of Senate Resolution 352 to amend rules XXV and XVI of the Standing Rules of the Senate with respect to jurisdiction over energy research and development matters, and for other purposes.

CONSUMER PROTECTION—AGENCY FOR CONSUMER ADVOCACY—AMENDMENTS

AMENDMENT NO. 1647

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

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

AMENDMENT NO. 1648

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

Mr. TAFT submitted an amendment, intended to be proposed by him, to the bill (S. 707), supra.

AMENDMENT NO. 1649

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

Mr. STEVENS submitted an amendment, intended to be proposed by him, to the bill (S. 707), supra.

AMENDMENTS NOS. 1650 THROUGH 1745

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

Mr. McCLURE submitted 96 amendments, intended to be proposed by him, to the bill (S. 707), supra.

AMENDMENT NO. 1746

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

Mr. BEALL submitted an amendment, intended to be proposed by him, to the bill (S. 707), supra.

AMENDMENT OF THE RAIL PASSENGER SERVICE ACT—AMENDMENT

AMENDMENT NO. 1747

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

Mr. JAVITS submitted an amendment, intended to be proposed by him, to the bill (S. 3569) to amend the Rail Passenger Service Act of 1970, and for other purposes.

MOTOR VEHICLE REPAIR INDUSTRY LICENSING ACT—AMENDMENTS

AMENDMENT NO. 1748

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

Mr. HARTKE submitted an amendment, intended to be proposed by him, to the bill (S. 1950) to provide for the licensing of motor vehicle repair shops and damage appraisers, and for other purposes.

Mr. HARTKE. Mr. President, last year I introduced S. 1950 to provide for the licensing of motor vehicle repair shops and of damage appraisers. During the intervening months, my staff has had many meetings with interested groups in an effort to put together a piece of legislation which will protect consumers against the unfair or unscrupulous practices of a small, but significant, number of people who repair cars or appraise damaged vehicles.

Today, I introduce an amendment in the nature of a substitute to S. 1950. My amendment represents the best thoughts of consumer groups, garage owners, automobile dealers, and damage appraisers. If enacted into law, my proposal will make it possible for a car owner to take his car into a shop with greater confidence that the work will be performed in a proper manner and that he will be charged a reasonable price.

Mr. President, I ask unanimous consent that the next of my amendment be printed in the RECORD at this point.

S. 1950

AMENDMENT NO. 1748

Intended to be proposed by Mr. HARTKE to S. 1950, a bill to provide for the licensing of motor vehicle repair shops and damage appraisers, and for other purposes, viz:

Strike all after the enacting clause and insert the following in lieu thereof:

That this Act may be cited as the "Motor Vehicle Repair Industry Licensing Act".

SEC. 2. It is the purpose of this Act to encourage the States to provide a procedure for the licensing of shops which are involved in the repair of motor vehicles and of individuals who are engaged in the business of appraising the extent of damage to motor vehicles.

SEC. 3. (a) As used in this Act—

(1) the term "motor vehicle repair shop" means—

(A) any business entity which is engaged in business for profit in maintaining or re-

pairing motor vehicles including repairs as a result of a collision or accident, major motor overhaul, repairs to drive train, strengthening frames and similar work; maintenance of motor vehicles for compensation. Repairing, diagnosing of malfunctions, or maintenance of motor vehicles means all testing, evaluation, analyzing and diagnosing of all adjustments, repairs to or replacement of any parts of a motor vehicle, including repairing or changing tires, lubricating vehicles or any parts thereof, installing light bulbs, installing batteries, installing windshield wiper blades, cleaning or adjusting of spark plugs, replacing fan belts and oil filters, but excluding the checking of fluid levels and such other minor services which may be exempted by regulations issued by the Secretary. No service shall be designated as minor, for the purposes of this section, if the Secretary finds that such service requires mechanical expertise, has given rise to a high incidence of fraud, consumer complaints or deceptive practices, or involves a part or function essential to the safe operation of the vehicle.

(2) the term "motor vehicle damage appraiser" means any person who appraises motor vehicle physical damage and who is in business for profit;

(3) the term "Secretary" means the Secretary of Transportation; and

(4) the term "State" means the several States of the United States, the District of Columbia and the Commonwealth of Puerto Rico.

(b) Nothing in this Act applies to—

(1) any individual acting in his capacity as an employee of a motor vehicle repair shop licensed pursuant to this Act; or

(2) any person who is engaged in the business of maintaining or repairing the motor vehicles of a single commercial entity so long as said entity is servicing said vehicles for its own use and is not engaged in the sale or servicing of said vehicles for profit.

SEC. 5. To be eligible for assistance under this Act, a State shall adopt a program which—

(1) establishes a State agency or authority responsible for the licensing of motor vehicle repair shops and motor vehicle damage appraisers, for annual renewals of such licenses, and for the investigation and processing of complaints concerning the performance of activities subject to the program by licensees;

(2) requires each motor vehicle repair shop doing business in that State to—

(A) furnish annually to the State agency or authority established under section 5(1) the name and address of the owner of the shop, the address of each location at which the repair shop does business, the number of employees, and the type and total volume of work performed during the preceding year;

(B) provide a written estimate of the cost of services of the type described in section 3(a)(1) of this Act to any individual to whom they furnish such services if such individual requests a written estimate. The total repair bill for any motor vehicle for which a written estimate is furnished shall not exceed the written estimated cost by more than 20 per centum of the written estimated cost for a written estimate of up to $300 or by more than 10 per centum of the written estimated cost for a written estimate of $300 or more, except that in the case of collision-damaged vehicles, the final written estimate shall not be provided the customer until the vehicle shall have been disassembled so as to facilitate an accurate estimate of the total damage to the vehicle. The motor vehicle repair shop shall provide the customer with a written estimate for such disassembly and appraisal and reassembly if the customer shall so direct. Said motor vehicle repair shop shall not be liable to mechanical practicability. Motor vehicle repair shops may charge a reasonable fee for making such estimates;

(3) requires each motor vehicle damage appraiser doing business in that State to—

(A) furnish the State agency or authority established under section 5(1) his name, address, educational background or training, number of years of experience as a motor vehicle damage appraiser, and any commercial relationship with or any financial interest in any motor vehicle repair shop;

(B) provide a written estimate of the cost of services to any individual to whom he furnishes damage appraisal services, except that in collision-damaged vehicles, the final written estimate shall not be provided the customer until the vehicle has been disassembled so as to facilitate an accurate estimate of the total damage to the vehicle. The motor vehicle damage appraised shall provide the customer with a written estimate for such disassembly and appraisal and reassembly if the customer shall so direct. Motor vehicle damage appraisers may charge a reasonable fee for making such estimates;

(4) requires that, in the event a determination is made that the actual charges for the repairs will exceed the total written estimate required by this section by more than twenty (20) per centum of the written estimate for a written estimate of up to $300 or by more than ten (10) per centum of the written estimate for written estimates of $300 or more, the customer shall be immediately notified. A customer so notified may authorize the repairs based on the new estimate of charges or may cancel the order for repairs. If the order for repairs is canceled by the customer, the unrepaired or partially repaired motor vehicle shall be released immediately in reasonable like condition as and where received for repair, and upon payment for any charges imposed for release of the unrepaired motor vehicle. Such charges shall be limited to repair work which was authorized and performed: *Provided,* That such charges may not exceed the original written estimate: *and provided,* That said motor vehicle repair shop shall not be liable to reassemble at its own expense and such reassembly shall be limited to mechanical practicability;

(5) requires each motor vehicle repair shop to display the following notice in a prominent place or places in letters at least two inches in height: "YOU HAVE A RIGHT TO REQUEST A WRITTEN ESTIMATE OF THE COST OF ANY REPAIR SERVICES PERFORMED IN THIS SHOP".

If such motor vehicle repair shop imposes or may impose a fee for such estimates, the minimum fee for such estimates shall be displayed as part of such notice in letters of equal height;

(6) requires each motor vehicle repair shop to prepare and maintain at the place of business, records of every motor vehicle repair job which such shop has performed. Such records shall be available for inspection by the appropriate State licensing agency for a period equal to that provided by the applicable State statute for limitations and shall include such information as the Secretary shall require.

(7) provides for appropriate sanctions and penalties, including license suspension or revocation, for any person who knowingly fails to comply with the requirements of the program. The minimum penalty for the first failure to comply with the requirements of the program shall be $100, and the minimum penalty for each succeeding violation shall be five hundred dollars or the suspension or revocation of the license, or both; and

(8) provides for an effective means for receiving and processing consumer complaints involving alleged violations of the requirements of the program established pursuant to this Act.

SEC. 6. The Secretary shall prescribe regulations to carry out the provisions of this Act no later than January 1, 1975.

SEC. 7. The Secretary, after consultation with the Secretary of Labor, is authorized to furnish technical and other assistance to encourage the States to establish and conduct training programs for persons engaged in activities subject to this Act, and, notwithstanding section 3(b)(1), for the employees of such persons, in order to assure the availability of qualified personnel to facilitate the application of advanced technology to the motor vehicle repair industry. Nothing herein shall prohibit existing industry training programs or other training programs, including those programs established pursuant to the Comprehensive Employment Training Act, from working in conjunction with, or acting on behalf of, the State in pursuit of said comprehensive training programs.

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

AMENDMENT OF THE FOREIGN ASSISTANCE ACT OF 1961—AMENDMENT

AMENDMENT NO. 1749

(Ordered to be printed and referred to the Committee on Foreign Relations.)

Mr. WILLIAMS submitted an amendment, intended to be proposed by him, to the bill (S. 3394) to amend the Foreign Assistance Act of 1961, and for other purposes.

CHILD WELFARE SERVICES IN VIETNAM

Mr. WILLIAMS. Mr. President, one of the most tragic lessons of the Indochina war is the plight of millions of disadvantaged children left in its wake. The orphaned, the maimed, and the homeless are continuing victims of the violence in Indochina. Now the Congress and the American people are reassessing this Nation's role in Southeast Asia. We must remember the tragedy of the children of Indochina and we should be aware that their suffering continues.

My personal commitment to assisting these children prompted legislation on four separate occasions for their relief. I was very gratified that Congress finally earmarked funds for the assistance of Vietnamese children in the foreign aid authorization for fiscal year 1974.

The United States expended $7.6 million for expanded child care programs in Vietnam last year. Child care activities include day care centers, nutrition, special attention to handicapped children, foster home care, and counseling for mothers. In addition, 10 percent of the funds allocated are used to facilitate intercountry adoption.

The progress in facilitating the adoption of Vietnamese children has been especially impressive. There are now seven voluntary agencies registered in Vietnam and in the United States to assist in intercountry adoptions. Previously, many Americans found that adopting Vietnamese children was a drawn-out and frustrating experience. New administrative procedures have reduced the time considerably, and there are now many more American families seeking to adopt Vietnamese children than there are Vietnamese children available.

However, our commitment to these innocent victims of war must continue. There is still an overwhelming need to provide the very basic needs of survival—food, clothing, shelter, and medical care—to these children. We have yet to fulfill a long-range objective of developing facilities and services to lessen the anguish of these displaced children

which places order and meaning in their turbulent lives.

It is estimated that there are nearly one million orphans or half-orphans in the total South Vietnamese population of 19 million people. It is disheartening to realize that continuing hostilities increase this figure daily. Until there is a real peace in South Vietnam, the numbers of disadvantaged children will continue to swell, requiring additional assistance.

Many of the hundreds of thousands of orphans in Vietnam have no way to sustain life. Hundreds a week die from such simple causes as malnutrition, common cold, overexposure, and perhaps most incomprehensible to us, from loneliness and a sense of despair. These essentials of life require both an immediate response and a longer-ranged program of planning and development.

The war has deprived about 600,000 children in military families of their fathers, and about 300,000 others classified as nonmilitary orphans. Those whose fate resigned them to orphanages are the most unfortunate. Their chances for survival were negligible prior to the aid provided in the foreign assistance authorization bill, but the amount of funding has been barely adequate. We have a moral obligation to provide increased aid to meet the objectives of the program which Congress established last year.

The wounds of the ongoing war cannot be healed quickly or with a single, limited, humanitarian assistance effort. Nevertheless, I believe that our Government should recognize the spectacular success of the assistance program for Vietnamese children and should build on it by providing additional assistance this year. By strengthening the foundation of this program, we can help to assure that the unintended victims of the war survive and have the opportunity to contribute to the future of their country.

Therefore, I am introducing an amendment which will earmark $10 million for fiscal year 1975 to provide expanded assistance to South Vietnamese children disadvantaged by the hostilities in Vietnam.

After adoption of this amendment, the Foreign Assistance Act will contain the following provisions:

ASSISTANCE TO SOUTH VIETNAMESE CHILDREN

(a) It is the sense of the Congress that inadequate provision has been made—

(1) for the establishment, expansion, and improvement of day care centers, orphanages, hostels, school feeding programs, health and welfare programs, and training related to these programs which are designed for the benefit of South Vietnamese children disadvantaged by hostilities in Vietnam or conditions related to those hostilities, and

(2) for the adoption by U.S. citizens of South Vietnamese children who are orphaned or abandoned, or whose parents or sole surviving parent, as the case may be, has irrevocably relinquished all parental rights.

(b) The President is, therefore, authorized to provide assistance, on terms and conditions he considers appropriate, for the purposes described in clauses—

(1) and

(2) of subsection (a) of this section.

Of the funds appropriated pursuant to section for fiscal year 1974, $5,000,000, and for fiscal year 1975, $10,000,000 or its equivalent in local currency shall be available until expended solely to carry out this section. Not more than 10 per centum of the funds made available to carry out this section may be expended for the purposes referred to in clause (2) of subsection (a). Assistance provided under this section shall be furnished, to the maximum extent practicable, under the auspices of and by international agencies or private voluntary agencies."

I urge the adoption of this amendment by the Senate Foreign Relations Committee.

AMENDMENT OF ATOMIC ENERGY ACT OF 1954—AMENDMENT

AMENDMENT NO. 1750

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

Mr. GRAVEL (for himself, Mr. HART, and Mr. NELSON) submitted an amendment, intended to be proposed by them, jointly, to the bill (H.R. 15323) to amend the Atomic Energy Act of 1954, as amended, to revise the method of providing for public remuneration in the event of a nuclear incident, and for other purposes.

AMENDMENT OF EXPORT ADMINISTRATION ACT—AMENDMENTS

AMENDMENTS NOS. 1751 AND 1752

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

Mr. JACKSON submitted two amendments, intended to be proposed by him, to the bill (S. 3792) to amend and extend the Export Administration Act of 1969.

AMENDMENTS NOS. 1753, 1754, AND 1755

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

Mr. DOLE submitted three amendments, intended to be proposed by him, to the bill (S. 3792), supra.

AMENDMENT NO. 1756

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

Mr. JAVITS submitted an amendment, intended to be proposed by him, to the bill (S. 3792), supra.

AMENDMENT NO. 1757

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

Mr. STEVENSON (for himself, Mr. HUMPHREY, and Mr. CHURCH), submitted an amendment, intended to be proposed by them, jointly, to the bill (S. 3792), supra.

AMENDMENT NO. 1758

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

Mr. HUMPHREY submitted an amendment, intended to be proposed by him, to the bill (S. 3792), supra.

AMENDMENT NO. 1759

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

Mr. JACKSON submitted an amendment, intended to be proposed by him, to the bill (S. 3792), supra.

ADDITIONAL COSPONSORS OF AMENDMENTS

AMENDMENT NO. 1449

At the request of Mr. TUNNEY, the Senator from Iowa (Mr. HUGHES) was added as a cosponsor of amendment No. 1449, intended to be proposed by him, to S. 3035 to amend title 23, United States Code, the Federal Highway Act of 1973, and other related provisions of law, to establish a unified transportation assistance program, and for other purposes.

AMENDMENT NO. 1450

At the request of Mr. SCHWEIKER, the Senator from Idaho (Mr. CHURCH) and the Senator from South Carolina (Mr. HOLLINGS) were added as cosponsors of amendment No. 1450, intended to be proposed to S. 3660, to amend the Export-Import Bank Act of 1945, as amended.

HEARING ANNOUNCEMENT

Mr. CHURCH. Mr. President, I would like to announce that the Senate Committee on Aging will conduct a hearing on the newly created National Institute on Aging on August 1, 1974, at 9:30 a.m. in room 1318 of the Dirksen Senate Office Building.

The hearing will focus on the Institute which was enacted into law—Public Law 93-296—on May 31, 1974. Testimony will be heard from the administration and those in the field of aging research who will discuss what they foresee as the organizational structure and responsibilities of the Institute. The Institute as described by law will have responsibility for conducting and supporting research in biomedical, social, and behavioral fields relating to the aging process.

ADDITIONAL STATEMENTS

THE FAVELL MUSEUM OF WESTERN ART

Mr. HATFIELD. Mr. President, in Klamath Falls, Oreg., a unique museum exists which offers a fascinating glimpse of Oregon's history. I speak of the Favell Museum of Western Art. This museum is operated by Gene Favell, one of Oregon's true history buffs. Gene has put together a wonderful collection of Oregon pioneer and American Indian artifacts. I have enjoyed visiting the museum, and I would urge any of my colleagues visiting Klamath Falls, Oreg., to visit it.

In a recent issue of Portland Commerce magazine, Gene talks about his unique museum. 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:

KLAMATH FALLS OFFERS TREASURY OF WESTERN ART AND ARTIFACTS

(By Gene H. Favell)

Someone has said that it is wise to keep in mind always that what you plan for the future will one day be your past. Little did I realize when I started hunting arrowheads and other Indian artifacts in the 1930's that my future would become so entwined with the peoples and cultures of the past, or that an almost impossible dream of building a western museum to share my interests and finds with others would become a reality. My plans for the future have truly led to a worthwhile past.

The Favell Museum of Western Art and Indian Artifacts in Klamath Falls, Oregon, is the culmination of that almost impossible dream. Since the doors opened on April 15, 1972, thousands of visitors from every state in the Union and many other countries have had the chance to view our 100,000 Indian artifacts and the works of 150 western

artists. They have been lavish in their praise and have acclaimed the Favell Museum as one of Oregon's and West's leading attractions—a must for people of all ages.

My interest in Indians and their artifacts must have been sparked by my mother, Mrs. E. G. Favell, who was an early collector of Indian baskets and beadwork. She would spend hours trading with Indians of the various Oregon and Northern California tribes when they would come to Lakeview for the annual roundup. She acquired a fine collection, and it is now on display in our museum.

Another factor that contributed to my early interest in artifacts was the drouth which struck Eastern Oregon in the 1930's. Many of the lakes in the area went dry. Winds would erode the lakebeds and uncover artifacts and people would traverse these lakebeds by foot and by car in search of interesting finds. The hunting bug bit many families, and mine was no exception. The things I found whetted my appetite, and when I returned home after World War II, I took up the hobby in earnest.

The collection grew to such proportions after years of hunting, trading and purchasing that a museum to house it became a necessity. I had seen so many collections sold out of the area, split up, stolen, burned, vandalized or destroyed in some way that I wanted to be sure that the same thing did not happen to mine. Plans were laid, and the dream came true in 1972.

We wanted our museum to have a broad appeal, so we decided to combine the artifact collection with the best western art we could find. Here was a chance for us to encourage those artists whose work we liked by purchasing and displaying it.

How about a quick tour through our four-star attraction? I'll be your personal guide. No charge today—this one from Alaska to Mexico. Many famous finds and collections are displayed here including Dr. H. H. Stuart's collection from the Northern California coast—a collection which includes many large obsidian knives and ceremonial clubs called "Slave Killers." Here you will find the John Cowles Cougar Mountain cave find from Lake County, Oregon, is on us. We want to whet your appetite so you will want to return again and again.

First, let's walk through the grounds and admire them and our beautiful building. Our museum is a six sided structure which was built with 300 tons of local volcanic rock. Enclosed within its walls on two and one half floors are 17,000 square feet of display, sales and storage space. It is really an art object in itself and is a credit to Klamath Falls architect Nina Pence. Three local stone masons spent over a year fitting the rocks together that form the building, the walls surrounding the grounds, the Indian rock planter, two interior waterfalls and gift shop floor. The grounds contain many trees and shrubs that are typical of Southern Oregon. That rustic looking fence is constructed of rails which were split by soldiers during the Modoc War of 1872–73. The river which borders our grounds is Link River. It connects Upper Klamath Lake with Lake Ewauna and is one of the shortest rivers in the world—about three quarters of a mile long.

Here we are, back at the main entrance and gift shop. Be sure to look in all directions so you won't miss anything. The wall on your left is built of solid rock from floor to 25 foot ceiling. Worked into the lava are many Indian rocks—mortars, pestles, platters and manos. The lava comes from Northern California and provides an excellent background for that waterfall. That arrowhead shaped rock in the floor is about Paul Bunyan size and that yellow pine log roof support is just that—a real log. Besides the display areas that we are about to tour, our museum features two gift shop areas, a Western Art Sales Gallery and a large meeting room.

Let's step into the exhibit area and get on with the tour. The museum is laid out something like a wagon wheel with a walk-in vault in the center as the hub and rooms running out like spokes on a wheel.

This first room is called the Columbia River Room and houses artifacts made and used by the tribes that lived along that great river of commerce and industry. Take plenty of time and examine the artifacts of stone, bone, and wood which are displayed here. The tribes of the Columbia were a salmon oriented culture, and since they usually had plenty of food, they had leisure time to produce fine carvings. Several of their stone effigies are displayed in the case on your right. Take special note of that owl effigy paint pot. It was found near the Dalles and is an outstanding example of Columbia River stone carving. The painting of Celilo Falls was done by Ina Pruitt, one of our featured Oregon artists. That waterfall on your left adds the relaxing sound of water to the room and provides a sanctuary for those two pheasants and a bluejay.

This next area houses artifacts from many of the western tribes whose hunting grounds and camps ranged from Alaska to Mexico. Many famous finds and collections are displayed here including Dr. H. H. Stuart's collection from the Northern California coast—a collection which includes many large obsidian knives and ceremonial clubs called "Slave Killers." Here you will find the John Cowles Cougar Mountain cave find from Lake County, Oregon, the Nicolarsen cache find which includes two skin bags and all their 1,000 year-old contents, and my own collection of arrowheads which numbers over 60,000 projectile points. Beadwork, over 800 baskets, Northwest coast carvings, pre-Columbian artifacts from Mexico, Southwestern United States pottery and stonework, all are to be found in this section along with appropriate western art.

Don't miss those three beautiful paintings high on the wall above you. One by John Clymer, C/A, is called "The Prize." Another is "An Early Start" by Arnold Friberg, and the third is an Austin Deuel which depicts a group of Indians in the snow. Don't hurry. It's going to take time to look at the fifty exhibits and over 100,000 artifacts which are shown in this room. There is even one display which shows artifacts which were found when we dug the foundations for the museum.

Now, let's move along to the art side of the museum. You will need to take plenty of time and enjoy each painting, sculpture and woodcarving. Over 150 artists are represented in this room including eleven members of the Prestigious Cowboy Artists of America. You'll find some of Oregon's finest here, too, including Ed Quigley, Don Prechtel, Ina Pruitt, Ray Eyerly and Klamath County's own Don Hummel. Don is an outstanding waterfowl artist whose oils of birds with Klamath area backgrounds are bringing him national recognition. You will view over thirty of his works in his special section of the museum and in the section which features wildlife and waterfowl art. His detail and accuracy are outstanding.

That diorama by Ed Quigley is called "The Holdup" and was loaned by one of Portland's leading citizens, Carl Halvorsen.

I hope that you are impressed with the number of artists represented in the collection and the variety and quality of their work. Our visitors tell us that this is the finest collection of contemporary western art that can be seen anywhere.

Last stop! Let's step into the vault. Displayed in the center is our famous fire opal arrowhead. It is made of Virgin Valley Fire Opal and was found by a sheepherder in the Blackrock Desert of Nevada in 1912. It is one of a kind and is probably the most unusual and beautiful arrowhead ever found.

LIBERIA CELEBRATES INDEPENDENCE

Mr. HARTKE. Mr. President, in 1846, a group of freemen left the shores of the United States and established a home in West Africa. Under the aegis of American Colonization Societies, the group survived many hardships and in 1847 established the free and independent country of Liberia. On July 26, Liberia celebrated her 127th birthday and became the oldest independent country in West Africa.

Under the guiding hand of President Willie Talbert, the nation has embarked on new programs of national and international importance.

Always a steady and close friend of the United States of America, Liberia has always extended her resources and facilities to aid America.

Today, Mr. President, the iron ore deposits of Liberia, which are 68 percent pure iron, are fueling the steel mills of America. Her natural rubber production of millions of acres are destined for the rubber plants in the Midwest.

His Excellency, the Honorable Edward Peal, presented his credentials on October 31, 1961, and has been Ambassador to the United States without a break in service, placing him second in point of service in the diplomatic community of Washington.

Mr. President, I salute the Government, the President, and the people of Liberia who celebrated on July 26, 1974, a day of independence and special friendship for America.

HOW AMERICA GOT HOOKED ON INFLATION

Mr. HUGH SCOTT. Mr. President, John Bunting, chairman and chief executive officer of the First Pennsylvania Bank has recently performed a tremendous public service by authorizing the printing of an advertisement "How America Got Hooked on Inflation" in major Philadelphia newspapers. Mr. Bunting acknowledged in a letter to me that the views expressed in the article will not be universally acclaimed, however, I want the RECORD to show that I believe the article merits serious consideration.

The article suggests that the constituents in the Commonwealth of Pennsylvania, New Jersey, and Delaware write their elected representatives to let them know of their concern for the inflationary spiral confronting our Nation. I have received many letters to date on the subject of inflation and I look forward to the letters from my constituents who are responding to this article.

I know my colleagues will find this article both interesting and informative, therefore, Mr. President, I request that this text be printed in the RECORD.

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

[From the Philadelphia Inquirer, July 23, 1974]

HOW AMERICA GOT HOOKED ON INFLATION (AND WHAT WE CAN DO ABOUT IT)

Like it or not, America is hooked on inflation.

It began innocently enough. In fact, the modest rate of inflation that prevailed through the 60's seemed a small price to pay for the benefits we received.

Inflation helped the government maintain a high rate of employment.

Inflation created by increased federal spending brought us more and more government services.

And the inflation brought about by an ever-growing money supply generated more affluence for a greater number of people.

If Washington knew that its artificial paradise couldn't last, it didn't tell us. And because we found little cause for complaint, the government felt free to mount deficit after deficit. It could have paid for these deficits by raising taxes, but that would have been highly unpopular politically. Instead, it imposed the "hidden tax" of inflation. For the government, inflation became a convenient and almost unconscious habit, like an after-work martini or an early morning wake-up pill.

WHO'S TO BLAME FOR INFLATION?

Now, Washington would have us believe that we caused inflation by wanting so much. The blame has passed from "avaricious businessmen," "power-hungry labor leaders," and "aggressive banks" to include the entire population. It's an easy out, but it won't wash. If we're to break out of our current dilemma, our elected officials will have to live up to their responsibility to provide effective leadership.

The government indulged its inflation habit as long as it could. But the "high" is over. In its place, we're experiencing the ugly side of inflation. Prices are rising faster than wages and eating away the value of savings; the elderly, the poor, and those living on fixed incomes are being pushed further into poverty; the capital needed by business for expansion and modernization has dried up; and, most importantly, the government's failure to act decisively has caused confidence in our leaders and institutions to erode at an alarming rate.

America's inflation habit is now one of America's biggest problems. The question facing us now is: "How painful is the withdrawal and how do we go about it?"

WASHINGTON HASN'T DONE ENOUGH

Traditionally, inflation has been countered with a tighter money supply and a balanced federal budget. But even if the government were to actively pursue this course (it hasn't), it wouldn't do the job. Because, for the first time, a world-wide scarcity of natural resources and productive capacity has become a fact of economic life. The recent oil shortage was a harbinger of this new economic reality. After we learned how much we needed Arab oil, we were forced to accept steep increases in the price we paid for it.

Monetary policy is not going to force the Arab nations to supply us with either more or cheaper oil. No matter how tight the money supply becomes or how well the budget is balanced, this new reality won't be altered. In fact, tight money only makes it more expensive for our industries to increase plant capacity. The sooner Washington realizes that more than outdated and ineffective measures are called for, the sooner we'll begin making headway against this new breed of inflation.

SACRIFICE ALONE IS NOT THE ANSWER

It's not a question of making do with less; it's a matter of using what we have, and using it more efficiently than ever before.

We have to cut down on our waste of resources. We have to encourage the development of more efficient means of production. And we have to develop alternate energy sources. If we make progress toward these goals, we can increase the value of our native resources and won't be as heavily dependent on foreign imports. We'll be able to increase the value of our dollars at home as well as abroad.

This calls for extensive retooling, expansion, and modernization for our industries. To finance projects of this magnitude, massive amounts of capital will have to be available.

Historically, the individual, through his personal savings, has played a vital role in making this kind of expansion possible. In the years to come, his role will be even more important. So if we want to build up our capital reserves, we should be encouraging people to save. But again, Washington has failed to come up with programs to achieve this end.

HERE'S WHAT WE SUGGEST

Among the many measures that could be adopted, we proposed five major actions:

First, balance the federal budget.

Second, to increase our productive capabilities, stimulate personal saving. To do this, we propose that the interest paid on all forms of personal savings of $20,000 or less be made tax exempt. And to insure that the value of savings not be whittled away by inflation, the government should allow the interest paid on savings of $20,000 or less to be increased as the Consumer Price Index rises. With these steps, the smaller investor could enjoy incentives currently available only to large investors.

Third, to use this new capital reservoir as efficiently as possible, it should be steered to those businesses and industries that generate maximum social and economic benefit. We propose that the Federal Reserve System designate preferred borrowers, such as power and light companies switching from oil to coal or atomic energy, and make funds available for loans to such industries. Further encouragement of these priority industries could be spurred by granting them variable investment tax credits.

To further channel the money where it's most needed, we propose that lending institutions be directed by the Federal Reserve to closely examine the terms of non-essential consumer loans—increasing the size and percentage of down payments and shortening the number of monthly payments when necessary.

Fourth, since tight money policies and inflation have pushed the cost of home ownership beyond the reach of the average home buyer, we propose that a major structuring of the mortgage financing mechanism be considered. Also, to make sure that mortgage money is available for those who need it most (primarily home buyers), we propose that no mortgage money be committed to new "second homes" for the next three years.

Fifth, stop the waste of essential natural resources. For instance, to cut down excessive oil consumption, new cars that get less than 15 miles per gallon could be penalized by the imposition of a stiff purchase tax. Eventually, this tax could be extended to include new cars that get less than 25 miles per gallon.

. . . AND HERE'S WHAT WE CAN DO

1. Inflation has become a serious problem that affects all of us. Your best weapon against it is understanding—understanding what it is, what causes it, and how it works. Inform yourself as well as you can. Learn what economics is all about. Find out why some measures are effective and others aren't.

2. Demand effective leadership. Ineffective government helped create this mess; it's up to us to make it effective. If our leaders won't move, we'll have to push them. Make yourself heard. It doesn't take a mountain of mail to get your congressman's attention. Often, a surprisingly small number of letters is enough to make him sit up and take notice.

3. Above all, take charge of your government. It was designed to be responsive to you. And it works best when you take an active part in running it.

TELL US WHAT YOU THINK

Whether you agree with us or not, we want to know how you feel. So take the time to write us. Send your letter to: Fight Inflation, First Pennsylvania Bank, 1500 Chestnut Street, Philadelphia, Pennsylvania 19101.

TELL WASHINGTON WHAT YOU THINK

And take the time to write your elected representatives. To help you, we've included this list of area congressmen.

U.S. Senators—Senate Office Building, Washington, D.C. 20510.

Pennsylvania—Hugh D. Scott (R) and Richard S. Schweiker (R.).

New Jersey—Harrison A. Williams (D.) and Clifford P. Case (R.).

Delaware—Joseph R. Biden, Jr. (D) and William V. Roth (R).

U.S. Representatives—House Office Building, Washington, D.C. 20510.

Pennsylvania—William A. Barrett (D.), Philadelphia; Robert N. C. Nix (D), Philadelphia; William J. Green (D), Philadelphia; Joshua Eilberg (D), Philadelphia; John Ware (R.), Oxford; Gus Yatron (D), Reading; Lawrence G. Williams (R), Springfield; Edward G. Biester, Jr. (R), Furlong; R. Lawrence Coughlin (R), Villanova; Fred B. Rooney (D), Bethlehem; and Edwin D. Eshleman (R), Lancaster.

New Jersey—John E. Hunt (R), Pitman; Charles W. Sandman, Jr. (R), Cape May; Frank Thompson, Jr. (D), Trenton; and Edwin B. Forsythe (R), Moorestown.

Delaware—L. Pierre S. DuPont, 4th (R), Rockland.

FIRST PENNSYLVANIA BANK.

HOW THE WORLD ECONOMY GOT INTO THIS MESS

Mr. HUMPHREY. Mr. President, today the world economy faces the most serious threat of breakdown since World War II.

A raging worldwide inflation, 12 percent in the last 12 months in the industrialized nations, endangers the very foundations of the major world economies. At the same time, the most significant shift in capital between nations in history—$100 billion annually beginning in 1976—is taking place between the energy producing and energy consuming nations.

Confidence in world currencies is at such a low point that savings are being poured into hard commodities, bidding their prices up, rather than into currencies.

The current disarray in the world economy calls for a level of peacetime cooperation between nations that may well be unprecedented. Without such a major collaborative effort to straighten out and prop up the world economy, economic disaster may result for all of our peoples. The tendency to go it alone, to retrench and withdraw, in the face of world economic chaos, that appeals to the nationalistic pride of leaders in every nation, can only be destructive for all of us.

Mr. President, on July 28 the New York Times Magazine published an article by Leonard Silk entitled "How the World Economy Got Into This Mess." This is a brilliant analysis of the current economic disarray throughout the world, how we arrived in this position, and what must be done to get us out of it.

I urge each of my colleagues to read and study this outstanding article.

Mr. President, I ask unanimous consent that Mr. Silk's article be printed in the RECORD.

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

HOW THE WORLD ECONOMY GOT INTO THIS MESS—IN SPITE OF VIETNAM, OIL, ANCHOVIES, AND WATERGATE, CAN WE GET OUT OF IT?

(By Leonard Silk)

The world has been slow to realize that we are living this year in the shadow of one of the greatest economic catastrophes of modern history. But now that the man in the street has become aware of what is happening, he, not knowing the why and wherefore, is as full today of what may prove excessive fears as, previously, when the trouble was first coming on, he was lacking in what would have been a reasonable anxiety. He begins to doubt the future. Is he now awakening from a pleasant dream to face the darkness of facts? Or dropping off into a nightmare which will pass away?

John Maynard Keynes wrote those words in 1930—and the nightmare proved to be all too real. Today, the world economy is again threatened with breakdown and disintegration. Monetary disorder afflicts the entire non-Communist world. Nations coming up against the interlocked threats of trade and payments deficits, inflation, energy shortages and unemployment are growing increasingly nationalistic in their policies. It was beggar-my-neighbor nationalism that brought on the debacle last time, for in the end the nationalism turned demonic and aggressive in Germany and Japan. Such an outcome seems unthinkable today—as it did in 1931. The time has come to review recent economic history, whose chief lesson seems to be that we are again facing a choice between economic chaos and a difficult, unprecedented, peacetime collaboration among major Governments.

History does not repeat itself precisely. One of the great differences today from the world of which Keynes was writing in 1930 is the revolution in national economic policy fathered by Keynes himself—the use of government spending, tax cuts, budget deficits and the pumping of money into an economy to prevent deep depression. Every government, prodded by powerful political forces, has been using the Keynesian medicine for keeping employment at a high level.

An unwanted consequence has been a quickening of inflation, the worst in a generation. Throughout the industrialized world, including the United States and Canada, Western Europe and Japan, consumer prices rose by an average of 12 per cent in the 12 months ending in May, 1974. In Britain the rise was 15 per cent, in Italy 16 per cent. Japan has been boiling along at an annual rate of 23 per cent. One can find far worse rates in some of the developing countries—40 per cent in the Philippines, 47 per cent in Indonesia, 63 per cent in Taiwan and a horrendous 709 per cent in revolution-racked Chile.

In the United States, consumer prices climbed by 10.7 per cent in the 12 months ending last May. But the climb in American consumer prices accelerated to an annual rate of 12.6 per cent in the first half of this year, and wholesale prices shot up at an 18.2 per cent annual rate. Chairman Arthur F. Burns of the Federal Reserve Board warned that "if long continued, inflation at anything like the present rate would threaten the very foundation of our society."

A doomsday mood has been stealing into the thinking of a great many people—stockbrokers, small investors, gold speculators and many ordinary people watching the value of their savings, pensions and insurance policies erode. Even among sophisticated economic observers, worries have been growing that the inflation could end in a crash. Ashby Bladen, a senior financial executive of the Guardian Life Insurance Company, says: "A return to either price stability or financial stability without an intervening crash appears to me to be practically impossible. . . . And the longer the crash is postponed by continuing the inflationary process of excessive credit expansion, the worse it will be when it does come."

The threat of a crash is worldwide, and has been seriously exacerbated by the enormous deficits being incurred by oil-importing nations as a result of the quadrupling of oil prices after the Arab-Israeli war last fall. David Rockefeller, chairman of the Chase Manhattan Bank, has been warning that the existing financial system may be unable to stand the strain of the sudden transfer of tens of billions of dollars a year from oil-importing to oil-exporting nations. The International Institute for Strategic Studies in London regards the use of the oil weapon by the Arabs, Iranians and other members of the international oil cartel as the greatest immediate threat to world economic and political stability. The rich, industrial countries are threatened, and so are the oil-poor developing nations, such as India, Bangladesh and Pakistan.

How did the world economy get into this pickle? Can we get out of it? I believe that it will take extraordinary measures by the United States and other nations, working together—as they failed to do in the nineteen-twenties and thirties until the roof finally fell in.

A way must be found to achieve the kind of international cooperation that made possible the reconstruction of the world economy after World War II, the most devastating in history. But the United States can no longer call the tune or provide the bulk of resources to resolve the current crisis as it did after the Second World War. "It is no exaggeration," says Dr. H. Johannes Witteveen, the Dutch economist who serves as managing director of the International Monetary Fund, "to say that the world presently faces the most difficult combination of economic policy decisions since the reconstruction period following World War II."

That brilliant job of resuscitation is now taken for granted, but can anyone who in those days saw the grim shattered cities of Europe and Asia, the disease and famine, the desperate mood and the corruption of the people forget it? In the decades after the war, the world economy experienced the greatest upsurge of growth in all history. World trade revived, and the world monetary system was rebuilt as the United States deliberately incurred deficits in its balance of payments to feed dollars and gold out to the world. In effect, the United States was acting like the big winner in a poker game who knows that unless the poker chips are redistributed, the game is over. Those, deliberately incurred American deficits made the best of sense, both for the United States and for the rest of the world. The concept of an interdependent world economy was no mere intellectual abstraction, but the basis for shared prosperity and growth.

The reconstructed world monetary system was founded on the strength of the American economy, on the strength of the dollar and on the deficits in the United States balance of payments. Therein lay a serious contradiction: A strong dollar and chronic deficits in the United States balance of payments would in time prove to be incompatible; either the dollar would weaken or the American deficits would have to be ended. There was a further contradiction: If the American deficits ended, the flow of dollars that was providing the monetary reserves for world economic expansion would also cease.

In fact, when the United States decided in the late nineteen-fifties that the reconstruction period was over, it turned out to be extremely hard to end the deficits. One reason was that the United States was reluctant to give up its role as leader of the non-Communist world. The 20th century had acquired the billing, at least in the United States, as "the American century." Both the Korean and Vietnam wars signified American determination to carry the "free-world's burdens"—the equivalent of Britain's "white-man's burden" a century earlier.

America's persistent payments deficit were not due solely to its military actions and economic aid programs. Of growing importance, as the deficits went on year after year, was the overvaluation of the United States dollar in relation to gold and to other currencies. This hurt American exports and made imports, as well as travel and foreign investment, cheaper for Americans. So the migration of American business overseas went on apace, with corporations using abundant and overvalued dollars to buy up foreign assets, start branches and subsidiaries abroad, hire foreign labor and use other foreign resources to increase their worldwide profits.

Foreigners, in the midst of the dollar prosperity, were schizoid about the trend. Many, especially those in close partnership with the Americans, welcomed the growth that United States capital, technology and managerial know-how helped bring. But there was increasing concern in Europe about the inflation that the dollar inflow was also helping to breed. And there was growing opposition to the "American challenge" of economic and political dominance—and about the recklessness of American military policy. Vietnam particularly strained the political bonds between the United States and its European allies. It also sealed the doom of the postwar world monetary system that had been built on a strong dollar and fixed exchange rates between the dollar, gold and all other currencies. For Vietnam accelerated the outflow of dollars from the United States and, even more damaging, increased domestic inflation. President Lyndon B. Johnson unleashed inflation at home by his unwillingness to ask Congress either for a tax increase to pay for the Vietnam war or to cut his Great Society programs to make room for the war in the Federal budget.

President Nixon inherited the inflation—and eventually made it worse. After a year of trying to stop it by tight money alone, Mr. Nixon brought the country a recession. Finding rising unemployment politically intolerable—especially with the 1972 Congressional elections looming—he switched to a highly expansive fiscal and monetary policy aimed at restoring full employment. For political reasons, he announced—few politicians had ever made it so explicit—"I am now a Keynesian."

Under Nixonian management, the U.S. balance-of-payments deficit worsened. Dollars poured out of the country, and on Aug. 15, 1971, as part of the "New Economic Policy," Mr. Nixon slammed shut the gold window, refusing to pay out any more gold to foreign Claimants in exchange for their surplus dollars. Nevertheless, overvalued dollars continued to gush out as expectations of what would once have been unthinkable—a dollar devaluation—grew. Finally, on Dec. 18, 1971, at an extraordinary monetary conference at the Smithsonian Institution in Washington, held amid the trappings and relics of the greatest achievements of American technology, the dollar was devalued by 8 per cent.

The object of the Smithsonian conference, from the American standpoint, was to devalue the dollar enough to produce equilibrium, or, if possible, a big surplus, in the American balance of payments. This would, it was hoped, restore American economic power and prestige; it would also save the "dollar standard," with the United States as kingpin of the world monetary system. For

this reason the Nixon Administration was, somewhat paradoxically, eager not to "devalue the dollar" officially, but to make other Governments upvalue their currencies.

Logically, there would seem to be no difference between devaluing one currency and upvaluing others in relation to it—and indeed there is virtually none. However, there was one important difference. The dollar had been regarded as the fixed star of the world monetary system, the star around which all the other national currencies revolved. For the dollar to change its own value—to be devalued in relation to other currencies and to gold—would symbolize a radical change in the conception of the world monetary order, like the Copernican revolution in which the earth was no longer seen as the unchanging center of the universe.

After the Smithsonian devaluation of the dollar, no matter how much the Americans might insist that the dollar was still the fixed center of the world monetary system, the skeptics would go on saying, like Galileo, "But it does move." And in fact, after the Smithsonian agreement, United States officials themselves gradually accepted the new concept of a movable dollar.

The Smithsonian agreement—the "greatest monetary agreement in the history of the world," Mr. Nixon called it—was supposed to be a one-shot realignment of exchange rates that would preserve the fixed-exchange-rate system created at Bretton Woods, N.H., in 1944. However, the Smithsonian agreement failed to hit on a rate structure that would restore monetary stability. With inflation raging at differential rates, that was doubtless impossible. The Nixon Administration, in any case, made virtually no effort to defend the Smithsonian exchange rates. It practiced the doctrine of "benign neglect," smug in the belief that foreigners had no alternative to taking in more dollars unless they would be willing to further increase the value of their own currencies, which the United States still wanted them to do.

The impact of devaluation on inflation caught Washington and most economists by surprise. American economists tend to minimize the importance of foreign trade to the United States, since exports or imports constitute less than 5 per cent of this country's gross national product. But the dollar devaluation, combined with expansive fiscal and monetary policy, intensified inflationary pressures which price controls could barely suppress. Devaluation spurred domestic inflation in the United States, certainly in the short run, by raising the dollar prices here of internationally traded goods, not only those of imports entering the United States but also, and more important, those of all exportable American goods as well. Many American products suddenly looked like a terrific bargain to foreigners, and they rushed to buy—beef in Chicago, oil in Baton Rouge and paintings at Sotheby Parke-Bernet Galleries in New York. The impact on prices was dramatic. As Randall Hinshaw of Claremont Graduate School has found, the effect of devaluation was immediate on primary products, such as food and raw materials, but more gradual on the prices of manufactured goods such as automobiles and tractors, especially under then existing price controls. However, as the prices of such basic internationally traded raw-material "inputs" as iron and steel, copper, aluminum, zinc, lead and plastics have risen, so have the prices of autos, tractors and other manufactured goods. And when price controls were lifted, the prices of industrial goods soared.

Ironically, the devaluation of the dollar initially had a perverse effect on the United States balance of trade and payments. Economists had expected some lag, but it lasted longer than it was supposed to. Indeed, the dollar outflow quickened. The reason was the devaluation increased the dollar price of imports more than it reduced the volume of imports, especially as the American economy was expanding more rapidly and sucking in more imports. Simultaneously, devaluation cut the dollar price of American exports, causing foreign demand for cheaper American goods to boom; but the United States imposed export controls on soybeans and other agricultural goods, restricting the rise of its earnings abroad. Even more important, booming demand at home restricted the growth of United States exports. Hence the American trade position worsened in 1972, and dollars continued to flow overseas to cover the payments gap. The basic United States blunder was to think it could run a devaluation of the dollar without first slowing the economy. It did just the reverse—coupling devaluation with strong fiscal and monetary stimulus.

The fixed-exchange-rate system could not survive the continuing dollar outflow. In early 1973, there was a second dollar devaluation, amounting to 10 per cent, following a dramatic around-the-world flight by Under Secretary of the Treasury Paul Volcker. But instead of calming the foreign-exchange markets, it roiled them further. And in late February and early March, dollars began to flood into West Germany because the mark looked like the safest port in a storm. The German central bank took in over $3-billion a day, paying out marks to all comers in a vain attempt to keep the mark's exchange rate from rising. After dishing out more than $10-billion worth of marks, German monetary officials finally grew frightened of inflation and threw in the sponge. They stopped defending the fixed exchange rate between the dollar and the mark; so the mark floated upward, and the dollar floated downward.

The Bretton Woods fixed-rate system was dead; the whole world monetary system was afloat. But inflation was anything but dead.

The loss of respect for the dollar, the key currency of the world monetary system, brought on a flight from all currencies into anything precious and scarce that would hold its value in a time of monetary crisis—gold, silver, platinum and many other commodities. Overnight it seemed as though the Club of Rome's long-range forecasts of the exhaustion of world resources were coming true in a rush, with soaring prices the fever gauge of commodity shortages.

Accidents of nature fed the commodity inflation. One of the weirdest was the disappearance of anchovies off the coast of Peru. Why this happened is still unclear. One theory is that the cause was the 1972–73 invasion of a warm-water current called El Nino, which upset the ecology of the cold-water Humboldt Current, drastically reducing the supply of plankton and other nutrients in which the anchovies feed. Most marine biologists doubt this, pointing out that El Nino comes roughly every seven years—it had last arrived in 1957 and 1962—but had not earlier seriously damaged the anchovy stock. Did an influx of predators eat the spawn? Were the young fish blown into hostile waters? Nobody really knows. Whatever the explanation, as Morgan Guaranty Bank economists correctly stressed, Peru's anchovy catch fell from more than 10 million tons to 2 million tons in 1973, wiping out a critical part of the world's fishmeal supply, which is used to feed livestock.

Bad growing weather for cereals, the failure of much of the Soviet crop, the massive Soviet-American wheat deal—a key element in détente—exacerbated the commodity inflation. But the over-all inflationary trend was no fluke. All nations were in a simultaneous boom, and world demand was outrunning supply. The perception of rising prices was transmogrified, as inevitably happens when an inflation lasts long enough, into a public perception that paper money is losing value and is not worth holding. Speculators rushed from currencies into commodities. By October of 1973, world commodity prices had more than doubled from the start of the year. And then, with the outbreak of the Yom Kippur war in the Middle East, the Arabs launched their oil weapon against the West.

World commodity inflation had given the oil producers both the motivation and the opportunity to boost their prices sky high. The rising costs of imports to the Arabs, Iranians and other oil-producing states, the rapidly growing demand for oil, thanks to the simultaneous boom in all the major industrial countries, the disappearance of American buffer stocks of oil—all these factors gave the Organization of Petroleum Exporting Countries, which includes Saudi Arabia, Kuwait, Abu Dhabi, Iran, Libya, Iraq, Algeria, Qatar, Indonesia, Venezuela, Nigeria and Ecuador the golden opportunity for a financial killing.

The Arab oil embargo, designed to induce the Western powers to force Israel to yield to Arab demands, cut the world oil supply at the critical moment, threw the Western allies into disarray in a mad scramble for oil and paved the way for the four-fold increase in oil prices. The price in the Persian Gulf was jacked up from about $2.10 a barrel to $8 a barrel. That meant the greatest single financial coup in history—a $70-billion haul by the oil producers in a single year. In 1975, their extra take will amount to $90-billion. And, if oil prices hold, they will be taking in over $100-billion a year—year after year. The World Bank estimates that by 1980 the oil-producing countries' holdings of liquid surplus capital will total $400-billion. This would mean that just six years from now they will hold at least 70 per cent of the world's total monetary reserves.

The fantastic transfer of money to the oil-producing states has created an unprecedented shock for the world economy. That shock is, paradoxically, both inflationary and contractionary. The huge increase in oil prices and payments worsens inflation in the United States, Japan and Western Europe by increasing both living costs and costs of production. It puts powerful pressure, both direct and indirect, upon the industrial and the developing countries to increase their export prices, in order to cover their oil deficits. To be sure, high prices are bringing out more oil and curbing demand. There is now, therefore, some downward pressure on prices. The crucial issue is whether the international oil cartel will hang together, even if this means cutting production to hold up prices.

At the same time, the enormous transfer of funds to the oil producers can choke off consumption and productive investment in the West. The build-up of Arab holdings, and the huge deficits that are their counterpart, could cause a breakdown in the world monetary system.

Prof. Richard Cooper of Yale says it is as though the Shah of Iran, the King of Saudi Arabia and the others had levied an annual tax amounting to $70-billion a year upon the rest of the world. Such a tax increase, as modern economic theory teaches us, will have a contractionary effect on national economies unless the money collected is put back into the economies from which it is collected in the form of expenditures on consumer goods or capital goods. If the major share of "oil taxes" collected by foreign Governments is not respent or reinvested in production, it will choke off output and income in the oil-importing countries. Some nations—those that are the best investment bets—will receive major shares of the oil money back; that is likely to be true of the United States and West Germany. Others, less creditworthy, will suffer huge deficits; that is already true of Italy, and it could be true of many others. The nations of the West could fall into economic warfare, each fighting to reduce its own deficit, and blocking im-

ports or depreciating its currency to do so. Competitive deflation could bring on a world depression. The most agonizing peril faces the poor, developing countries, whose markets would contract drastically.

For those nations caught with the worst deficits, there will be severe rinks of defaults on their foreign obligations. This is precisely the Italian situation now. In the past two years, the Italians have borrowed more than $10-billion in the so-called Eurocurrency market, taking funds from syndicates of private lenders on the credit of Italian state-owned utilities and other Government agencies. With the Italian balance-of-payments deficit running at a rate of more than $1-billion a month, Italy is having trouble raising more money abroad. Its gold reserves would barely last a year. If the Italians—and a few other governments with heavy balance-of-payments deficits—should default on their debts, some of the biggest and seemingly strongest private financial institutions all over the world would lose hundreds of millions of dollars, and the entire world financial system would be in jeopardy.

Once again, as in 1929–31, the world is facing the danger of a liquidity crisis, which, simply put, is the inability of financial institutions or governments to meet their current debts. Such a crisis, if it hit two or more countries simultaneously, could race like greased lighting through the entire world financial system. That was what happened in 1931 when the Austrian *Creditanstalt* failed. It was the breakdown of the world monetary system in 1931 that turned the sharp 1929–30 recession into the worst depression in history. Not even Keynes expected the nightmare that began in 1931. It is this kind of international catastrophe we must prevent now.

But how? There are many ways to do it, but the above account of how we got where we are today suggests the main elements essential to a solution:

First, the United States, Western Europe and Japan must recognize that they are all in the same boat, and must either work together or they will sink together.

The United States cannot dictate to the others; it does not have the power to do so, and it would only defeat its own purposes if it tried. What is needed now is genuinely shared leadership and the forging of a spirit comparable to that achieved in wartime—and to the reconstruction of the world after the last war.

Second, this cooperation must immediately take the form of preventing any single country, or its major financial institutions, from going under.

One of the reasons we in the Untied States are not already suffering from a major domestic financial panic is that our central bank, the Federal Reserve System, has been prepared to rescue any major financial institution that gets into serious trouble, as it has done this year in the case of the Franklin National Bank of New York. Internationally, we do not yet have a "lender of last resort." Some national central banks have met in Basel, Switzerland, to work out plans for rescuing endangered financial institutions, though not all central banks have joined the effort and it is not yet clear how far those participating are ready to go. The nations of the Western world and Japan should either create an international lending agency of last resort, or transform the International Monetary Fund into a true world central bank that can rescue major financial institutions and nations themselves from financial collapse.

Third, the world monetary system must be restored to equilibrium.

The most important single step toward that end would be a significant reduction in the price of oil, which would reduce the imbalance of payments between the oil-importing and oil-exporting countries. The oil-importing countries should develop a broad strategy to bring down the price, a strategy that should include: an effective conservation program to reduce the demand for oil; an accelerated program to develop other energy technologies; a warning that, if necessary, the United States and its allies are prepared to withhold trade and the managerial and technological skills the oil-exporting countries want for their own economic development; and a refusal by this country and its allies to provide arms if the oil-producing states persist in threatening Western economic stability.

But if the oil-producing countries are willing to work with the West for world stability and their own development, the United States and its partners should extend the hand of friendship to them. It should facilitate expansion of their trade and foreign investment, the "recycling" of oil dollars.

Fourth, the Western nations must avoid like the plague the beggar-my-neighbor policies that helped to destroy world trade in the thirties.

Such policies broke the world into hostile trading blocs, including the nations that joined in Nazi Germany's barter and rigged-exchange rate deals and Japan's Asian Co-Prosperity Sphere. The Western nations must reinforce their liberal trading policies, banning both import and export controls. They must hold their markets open to one another and seek particularly to create markets for the surplus and distress goods of nations that get into severe balance-of-payments trouble.

The nations should also forswear resorting to competitive devaluations of their currencies aimed at gaining a trading advantage over one another. They must coordinate their fiscal and monetary policies to avoid competitive deflations that could bring on world depression. The Organization for Economic Cooperation and Development (O.E.C.D.) provides a forum for the joint review of national policies; this process should be strengthened to ensure that world employment and trade are mutually sustained.

While the world monetary system remains chaotic, it would be madness to try to repeg exchanges rates; floating rates have reduced the massive money flows from one currency to another that propagated world inflation. In time, the reduction of those money flows help to bring world inflation under control and enable exchange rates to stabilize. But the nations must work toward stability; a "great leap forward"—or backward—could be disastrous.

Fifth, nations must resolve to check their domestic inflations, controlling the excess claims of special-interest groups that are its root cause.

Inflation, while communicated internationally, originates basically from domestic sources. This is one reason why rates of inflation vary so much from country to country. There is no monetary formula or technical solution that will provide Governments with the political courage and the economic skills to reduce the excessive demands that propel domestic inflation. Governments must resist the multitude of special-interest pressures that distort or waste resources—as in the multibillion-dollar military programs which exacerbate inflation and, even more omninously, increase the danger of arms races and war itself.

Under the sway of Keynesian economic theory, inflation has been regarded by most contemporary economists as a "technical" problem resulting from a gap between the excess demand for all goods and services and what the economy is capable of producing at existing prices. The basic remedy has been to close that inflationary gap by reducing total demand, whether by tax increases, cuts in Government spending or by making less money and credit available to the private economy.

It has become clear that the problem of stopping inflation is not technical but political in the large, systemic sense. Inflation is a consequence of the way massive, organizational, pressure-group economies operate. The military-industrial complex is only the most celebrated example of the special interests which capture a huge share of national resources and give less productivity in exchange. Other groups that have won special benefits and protection from Government—whether in the form of subsidies, huge appropriations, tax breaks, tariffs, import quotas or other rules limiting foreign or domestic competition—include the oil industry, the maritime industry, civil aviation, the highway-building industry and its supporters, dairy producers, wheat farmers, cattlemen, steel producers and textile producers. Labor unions fight for a growing share of the national pie partly by backing the demands for special favors and protection of the industries that employ them and partly by waging side-contests with managements for a bigger slice of the take.

The pressure-group economy not only breeds inflation but biases national choices on what is produced and by whom, and how income is distributed. Political power shapes the national use of resources and has a major influence on who gets what. This may be the major longrun lesson of that political fiasco whose code name is Watergate.

An effective program against inflation must be one that faces up to the necessity of curbing the power of the special interests and removing their corrupting influence on Government or, the other side of the coin, curbing the efforts of Government officials to invite bribes in exchange for favors as a means of consolidating political power in a corporate state. The old-style, laissez-faire capitalism is dead. Yet the mixed economy—that is, the mixture of Government and private interests that has replaced it—needs better methods of harmonizing competing group pressures in a noninflationary way and of guiding the economy to serve broad social needs such as protection of the environment, development of crucially needed energy, and provision of medical care, education and other vital services.

Specifically, this nation and other capitalist democracies need an incomes policy, a means of regulating the growing income claims of contending groups, together with their access to money and credit through the banking system. In periods of monetary tightness and very high interest such as the present, the inequities of only general controls on money and credit become obvious, as the most powerful financial groups drain funds away from the least powerful.

Similarly, this nation and many others need more effective and democratic ways of planning their long-run social and economic development. Increasing the supply of resources, human and material, and in the proportions needed, is essential to curbing inflation in a way that will not require periodic bouts of recession, depression and high unemployment.

In an increasingly integrated world economy, such programs need to be international and not merely national in scope. Yet the time for supranational government is not yet. The fundamental decisions needed to get the world through the current economic crisis, which could become a world political crisis as well, still must be taken at the national level. Is such an effort to restore world economic order politically feasible and realistic? It had better be. The potential tragedy of the moment is that all the Governments of the major democracies are in a weakened state—weakened in large degree by the socially and politically debilitating effect of inflation itself. And the crisis of leadership and moral authority is perhaps greatest of all in the United States, on which any coordinated action program among the At-

lantic nations and Japan must still depend. We know what we must do; the issue now is whether we have the will and the unity to do it.

NIXON ECONOMIC MESSAGE: GRIN AND BEAR IT

Mr. HUMPHREY. Mr. President, last Thursday evening millions of Americans eagerly tuned in to the well publicized national television address of President Nixon on economic conditions and national economic policies. After several weeks of Presidential meetings with principal economic advisers, public hopes were high that an effecive economic policy would be outlined.

Confronted with soaring prices, declining real wages, staggering interest rates, and high unemployment, the American people were longing for decisive action to reverse this economic decline.

Regrettably, all they heard was a recitation of what the administration would not do. They were told that wages would not be controlled, that prices would not be controlled, that taxes would be neither increased nor decreased, and that there would be no resort to deficit spending.

Instead of a well thought-out program to deal with our very serious economic situation, the tired old policy of "high interest rates," which has been totally ineffective for months, was again professed as the answer to our economic woes, the main article of faith of the "old time religion."

I am convinced that the present administration has no better idea of how to improve economic conditions today than they did 6 months ago. The dismal failures of Nixonomics have not taught the White House the errors of its ways, and this is costing every American dearly.

Two specific assertions do require answers. First, Mr. Nixon said wage and price controls have been discredited. I disagree. Wage and price controls worked in phase 2 to produce the best economic performance of the Nixon administration. What has been discredited is this administration's ability to manage such a program fairly. The abuse of wage and price control authority by this administration, to keep a brake on wages while allowing prices to accelerate, will not soon be forgotten by American workers and their families.

Second, the President said "there will be no credit crunch." This is even less convincing than his assertion last February that "there will be no recession," because we are in a "credit crunch" already.

While Mr. Nixon's big business friends may be able to cope with the "credit crunch" we are in today, many others cannot. This administration needs to get out into the country and find out what is going on; they are living in some "Never-Never Land."

If the White House economists will come with me to Minnesota, and talk to the people I visit with, they will see that, indeed, a severe "credit crunch" exists.

I talk with the young couples who cannot borrow mortgage money at any interest rate. I talk with the small businessmen who must borrow at 15 percent-16 percent interest. I talk with the municipal utilities people who cannot find buyers for their bonds. And, these are just a few of the multitude in America today who find themselves in a "credit crunch," despite the official rhetoric.

We may be able to produce a Federal budget in the 1975 fiscal year that is less than the $305 billion requested by the President, but this will not reduce inflation. After all, the budget deficit in the past fiscal year—with its historic level of inflation—was only $3.5 billion, the smallest budget deficit since 1970.

We may also be able to save $300 million by cutting back on the number of Federal jobs in the next fiscal year. But this will have no impact on inflation.

We must have a more comprehensive anti-inflation, antirecession policy, if our economy is going to be straightened out.

I believe that such a policy must at least include the following elements:

Loophole-closing tax reform coupled with tax relief to low- and moderate-income people.

A reordering of national budget priorities, with an expansion of public service jobs and reduced Defense Department spending.

A national incomes policy which includes provision for voluntary wage-price guidelines.

A plan for the allocation of credit at reasonable rates to priority areas.

A mechanism for long-term economic planning and resource allocation advice to public decisionmakers, and

A national food policy which assures an adequate food supply at reasonable prices to consumers with a fair return to farmers.

A national energy policy to assure adequate supplies of fuel from domestic sources.

The American people have suffered enough from the Nixon administration's failure to provide strong, consistent economic leadership. If the "grin and bear it" approach is all the White House has to offer, it is time for Congress to exert its leadership, as best it can, to straighten out the current economic mess.

Mr. President, I ask unanimous consent that several recent editorials and articles on current economic conditions and the Nixon administration's response to these conditions 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 27, 1974]

STONEWALLING THE ECONOMY

(By Clayton Fritchey)

When the Senate gets around to considering qualifications of Alan Greenspan, a New York business consultant, as the new chairman of Mr. Nixon's Council of Economic Advisers, it needs to investigate not only possible conflicts of interest but also the kind of economic future Greenspan sees and wants for America.

There should be no great problem about a conflict of interest. Greenspan is both the chief owner and chief executive of Townsend, Greenspan and Co., but while he is in government he could, like others, put his shares in a blind trust, and no doubt that is what he will do.

The more serious problem is what he has in mind for the country once he becomes the President's No. 1 economic adviser. The Senate had better find out about this sooner rather than later, for later may be much too late indeed.

The most disturbing aspect of the Greenspan choice is that it tends to confirm the growing suspicion that the President, to use the favorite terminology of the White House, is now detemined to "stonewall" the economy by fighting inflation with "old-time religion."

All of the President's new financial, business and economic advisers are "fundamentalists" who in general believe the only reliable cure for inflation is deflation—which is to say, unemployment, reduced spending, a business slowdown, a pinched federal budget, tight money, higher interest rates, credit restraint and a general cooling off. In short, a recession, or maybe worse.

Greenspan is only the latest recruit of this persuasion, but he will complete the change in Mr. Nixon's economic palace guard, which the President has recently transformed into a much more conservative and doctrinaire group than his original appointees.

The retiring chairman of the Council of Economic Advisers is Dr. Herbert Stein. Before him there was Dr. Paul McCracken. Both are rather conservative, conventional economists, but they were more cheerleaders for the President than rigid ideological advisers.

Mr. Nixon has now installed as Secretary of the Treasury, William Simon, who reportedly wants to cut the budget so severely that even some administration figures are shocked. Simon's targets for cutbacks are, as might be expected, outside the military-industrial complex.

Simon succeeds George Shultz, a moderate conservative of less-pronounced views. Before Shultz, there was the mild David Kennedy, who inclined toward wage-price controls, and John Connally, who didn't like controls, but for political purposes persuaded Mr. Nixon to impose them in 1971.

Another new figure is Kenneth Rush, former Under Secretary of State, who has been installed at the White House as the "coordinator" of the President's quadriad of economic adviser. Rush is not an economist himself, but he apparently believes just as devoutly in the medieval orthodoxies of Adam Smith as his colleagues.

Finally, there are Roy Ash, who succeeded Shultz as director of the Office of Management and Budget, and Dr. Arthur Burns, chosen by Mr. Nixon to be chairman of the Federal Reserve Board. Ash, like Rush, is not an economist. He is simply by, of and for business, especially defense contractors.

Dr. Burns, of course, is the man who has been trying—and failing—to stop inflation by driving interest rates above any levels ever known in the United States before. So far, the higher the rates, the higher the inflation; yet neither Dr. Burns nor his patron, Mr. Nixon, shows any signs of giving up this "old-time religion." Moreover, Dr. Burns now wants the President to cut the federal budget by $10 billion, which makes even Ash wince.

Even though huge deficits, easy money and wage-price controls did much to re-elect Mr. Nixon, he was never really happy as a self-proclaimed convert to New Deal Keynesian economics. It is obvious that he is glad to embrace once more his old laissez faire philosophy. Even if the economy continues to falter, Mr. Nixon never has to face the voters again. He only has to worry about getting 34 conservative Senate votes to head off impeachment.

Meanwhile, the President puts on a show of doing something by calling a White House conference on the state of the economy, to which he principally summoned a group of prominent businessmen, most of whom could be counted on to applaud administra-

tion policy. Notably absent were labor leaders like George Meany and consumer spokesmen like Ralph Nader, who believe the chief thing wrong with the country is lack of leadership in the White House.

[From the New York Times, July 29, 1974]

HOOVERIAN NIXONOMICS

Remembering his own uncertainty about what to do in the midst of worsening depression, President Herbert Hoover later wrote: "No President before had ever believed there was a governmental responsibility in such cases. No matter what the urging on previous occasions, Presidents steadfastly had maintained that the Federal Government was apart from such eruptions; they had always been left to blow themselves out."

President Nixon's economic speech last week in Los Angeles was a remarkable throwback in spirit and philosophy to that old laissez-faire doctrine. Said Mr. Nixon: "The key to fighting inflation is . . . the steadiness that stands firm against the clamor to take dramatic action just to create an appearance of motion; the kind of steadiness that rejects gimmickry, and that gives the enormous creative forces of the market place a chance to work." Impatience, the President now believes, is the root of economic and financial evil.

The President is coupling the doctrine of steadiness with a rather mild dose of the "old-time religion" of budget balancing and budget-cutting. Aware that this budgetary stringency may be terribly unpopular with special-interest groups, Mr. Nixon asks the support of "the one lobby we don't have—an anti-inflation lobby." This should not be "a lobby with plush Washington offices and high-paid officers," he said, hastily adding that of course he was not castigating any of the fine lobbyists present in his Los Angeles audience or elsewhere around the nation.

And indeed demonstrating that his newfound zeal for resisting the special-interest lobbies is by no means excessive, Mr. Nixon followed his Los Angeles speech by quietly signing a bill to provide $2 billion in loan guarantees for producers of beef cattle and other livestock—a measure that will further intensify pressures on the nation's money and credit.

Mr. Nixon is now calling for voluntary action by the public to stop inflation. He called upon American consumers to save an extra 15 cents for every $10 they spend. This suggestion produced a quick flap among his advisers. One top White House economist urged the American people not to take the President literally, lest a higher savings rate and cut in consumption deepen the present business slump. Herbert Stein, the retiring chairman of the Council of Economic Advisers, defended the President's statement, saying mysteriously: "We are not asking everyone to save an additional 1.5 per cent."

Besides revealing the recklessness of Presidential efforts to jawbone consumers, this dispute demonstrates the oversimplification and inadequacy of the President's economic policy; the nation is certainly suffering from severe inflation, but not because consumer demand is excessive. On the contrary, the economy is in a slump, which further cuts in total consumer demand would only worsen.

To boost productivity and production, Mr. Nixon wants to reduce government regulation of business and, ominously, "re-evaluate the trade-off between increasing supplies and certain other objectives, such as improving the environment and improving safety." Laissez-faire, with all its sweet 18th-century charm, is still the favorite doctrine of much of big business, except where bailouts are concerned.

The only meaningful anti-inflationary element in the President's speech was his backing of the Federal Reserve's restrictive monetary policy, which has sent interest rates soaring and threatens to send the American economy into a more severe slump, endangering the whole world economy. An intellectually bankrupt Administration seems to have no better course than to hope that with a little bit of luck this storm will soon blow itself out—just the way the last serious worldwide economic storm did not.

[From the Washington Post, July 25, 1974]

RECESSION AND INFLATION

As it turns out, there was a recession after all—but a very peculiar recession, The short and simple definition is an absolute decline in the nation's economic output for two consecutive quarters of the year. The figures published last week show that to have happened. The slowdown over the past three months was modest, compared to the precipitous drop last winter. But it was a real slowdown, and it means that the economy is not recovering from last winter's disruptions as quickly as the administration expected. The President, in an address tonight, is to tell the country what he plans to do next.

Since President Nixon made a flat pledge in his State of the Union Message that there would be no recession, he can expect a chorus of jeers and reproaches now. But if there is one thing that this unhappy administration has done altogether correctly in its recent economic policy, it was the decision not to try to jack up the GNP with a sudden spurt of federal spending this spring. At the budget briefings last January the White House emphasized that it was ready to pour out as much money as necessary to avoid a recession. But the only justification for that tactic, with its inevitable aggravation of the inflation, would have been a severe rise in unemployment. To everybody's surprise, the unemployment in June was exactly the same as in January. This remarkable stability has been one of the great oddities of this recession. It is exceedingly welcome, and yet deeply perplexing. It stands as a warning that the economy is now moving on a track that we are far from understanding completely, let alone forecasting accurately.

Inflation is still the greater menace to the country. To the extent that economic policy is a choice between unemployment and inflation, the attack on inflation requires the priority currently. The broadest single gauge of inflation, the GNP deflator, registered 8.8 per cent for the past three months. That is a slackening since the extremely high 12.3 per cent last winter, but it remains higher than the 8.5 per cent that prevailed through the second half of last year.

The administration's only remedy so far has been unprecedentedly high interest costs. The interest rates have not reached a level that cannot be sustained more than a few months without widespread damage to businesses, housing and state and local governments. A variety of eminent officials, unable to think of any other solution that makes such sense, are beginning to succumb to the temptation to call for solutions that make no sense at all. The Secretary of the Treasury, William E. Simon, favors cutting $20 billion of the federal budget for the fiscal year that began this month. The chairman of the Federal Reserve Board, Dr. Arthur Burns, says that he wants to cut $10 billion out of it. The chairman of the House Ways and Means Committee, Wilbur D. Mills (D-Ark.), wants to cut $10 billion and, if Congress refuses to cooperate, he demands that the President impound the funds. It is a bipartisan fantasy.

The budget is an interweaving of legal and moral commitments that cannot be reduced significantly on short notice. The President's director of budget and management, Roy Ash, is justly known for his cold and unsentimental view of spending in general, and the social programs in particular. But he knows how the budget actually works. He says that spending this year can be cut at most by about $2 billion and, in this case, his is the voice of hard reality. The consensus among technicians and economists who know the budget, regardless of their political views, is that Mr. Ash's figures are probably just about right. It might be possible, Mr. Ash says, to reduce the formal total by as much as $5 billion through resorting to all of the familiar bookkeeping dodges and selling more offshore oil leases. But that is about the limit.

Presumably Secretary Simon, Dr. Burns and Congressman Mills know it as well as Mr. Ash. But they are getting frantic protests from businessmen hurt by high interest costs, and they are being implored to try some other course. In that vein, Mr. Mills' committee is now engaged in a misguided attempt to buck up the stock markets by reducing the capital gains tax.

Similarly, Secretary Simon has apparently suggested that one place to cut the budget is in Social Security benefits. It is hard to think of an idea more outrageously unjust than chopping at pensions in the midst of a roaring inflation. The idea is sufficiently uncharacteristic of Mr. Simon to suggest, once again, that it is not intended altogether seriously. But this kind of talk, taken together with the bill to reduce the capital gains tax, does real damage. It suggests a future in which inflation steadily increases the taxes on most people's wages, while Congress cuts taxes on investors' and speculators' gains and the administration trims back federal benefits to some citizens but not all.

That is exactly the wrong way to go about the slow and painful process of braking the inflation. The costs are going to have to be equally shared throughout our society. If public policy begins to shift the burden away from certain favored taxpayers onto others, in the name of controlling inflation, the administration will have sacrificed any claim to the public cooperation that it desperately needs. Without widespread public support, no price policy is going to work.

[From the Washington Post, July 28, 1974]

THE OTHER COVER-UP: NIXON STANDS PAT DESPITE RECESSION FEARS

(By Hobart Rowen)

The American economy is in serious trouble, despite the Nixon administration's transparent attempts to cover up a recession by calling it a "fluke" or a "spasm." And the chances are that things will get worse before they get better, regardless of President Nixon's assurance some weeks ago that "the worst is behind us," and his rededication Thursday night to the "basic laws and forces of the market place."

There are many reasons for the present onerous combination of high inflation and declining national output. But none that Mr. Nixon cited is as important as the vacuum in leadership caused by the President's involvement in the Watergate mess.

No one is directing the American economy today. The public knows it. Businessmen know it. Foreign governments know it. Neither Congress nor the President will be attending to the main business of the nation so long as Mr. Nixon's future is in doubt.

There is a pervasive level of apprehension and concern about the economy. Housing is in a full-fledged depression. Many people with substantial cash down-payments can't get a mortgage loan to buy a house—even at 9 or 10 per cent. The Franklin National Bank scandal has led people to wonder openly about the soundness of other banks. One hears fears of a money panic, and doubts about the ability of some major cities to redeem their bonds. Investors, looking to protect the value of their money, seek the relative security of Treasury bills, abandoning higher yields that may be available elsewhere.

It all adds up to a vote of declining confidence in government and in many private institutions. Yet, the only meaning to be drawn from the President's disappointing stand-pat speech of Thursday night is that he intends to be guided for the moment by the highly conservative, laissez-faire thinking of his newly designated Economic Council chairman, Alan Greenspan.

A recent national survey of the Sindlinger organization indicates that 87 per cent of the people believe inflation to be the No. 1 problem in the country. And most are bracing themselves for continued (and perhaps higher) rates of inflation.

Their fears will be confirmed within a few days with a spectacular jump in the wholesale price index for July.

Therefore, this is a time for strong initiatives. But the President's speech promises only further drift. Price increases keep pouring out of the industrial sector like an angry gusher, assuring wage hikes that will produce a new inflation spiral in 1975. There is an urgent need to reconsider wage-price controls, despite Mr. Nixon's promise that he would not resort to such "discredited patent medicine." (Mr. Nixon's most successful economic year followed his prescription of that medicine in August 1971.)

So what is the President's economic program? It is to expand supply in the long run, and cut demand in the short run. If businessmen, consumers and local governments really cut spending the way the President suggested, we could have a jolly good economic slide in no time at all.

And as for budget-cutting and budget-balancing at the federal level, realists in the White House and Budget Office will tell you that for all the talk of $5 and $10 billion budget cuts for this fiscal year, we'll be lucky if the $305 billion expenditure figure doesn't expand to $310 or $320 billion.

Are there any other answers within the administration to economic problems? Yes, as a matter of fact, there are. At the very time that salaried workers are suffering a 5 to 6 per cent loss in real income because of inflation, Treasury Secretary William E. Simon wants to cut business taxes further.

Yet, newly revised data on the gross national product just released by the Commerce Department show that corporate tax payments are shrinking (not because of reduced profits, but because of wider loopholes). Examples: The investment tax credit provided a $4 billion bonanza for business in 1973, double the 1971 benefit. Also, the introduction of DISCs, a device to stimulate exports, has cost the Treasury another $1 billion—a high price to pay for a questionable policy and a dubious result in actual export growth.

The only meaningful anti-inflation policy weapon being wielded at the moment is the Federal Reserve's interest rate and money policy. This is a devastating tool, a blunderbuss of a weapon. Tight money is putting a squeeze on housing and municipal construction, and has affected consumer psychology. It has also caused a serious retrenchment in electric and gas utility expansion. If forced to carry the whole load, Fed policy could put the economy into a serious tailspin.

It is instructive to recall that the administration initially anticipated a mere 2 per cent decline in real GNP for the first quarter, with an upturn in the second quarter and a strong recovery in the final half of the year.

The preliminary result announced for the first quarter was a 5.8 per cent drop, shocking enough. Subsequent revisions (along with upward revisions of the inflation rate) put the drop at 6.3 per cent and, most recently, at 7.0 per cent.

Economic counsellor Kenneth Rush assured this correspondent publicly a month ago that there would be "no two quarters of successive decline."

Now, of course, the administration has been forced to announce a 1.2 per cent GNP decline in the second quarter—a six month fall-off in actual GNP, the first time that's happened since the Eisenhower recession of 1957–58. Mr. Nixon managed to avoid—totally—any mention of this below-normal pattern in his speech on the economy.

Moreover, although some measures of economic performance, including industrial production, show small pluses for the second quarter, revision of the GNP accounts shows there has been a big inventory buildup—and that spells declining production and rising unemployment later this year.

It doesn't matter that the administration refuses to call this a recession. (After all, Mr. Nixon promised the country in his State of the Union address that "there will be no recession in the United States of America."

What matters is that inside the administration at working levels, the expectation no longer is for a recovery in the second half. "We could well have another drop in the third quarter," says a top government economist.

As long as inflation and high interest rates continue, with no rein on prices or wages, real growth of the economy will range from zilch to inconsequential, meaning that we face a long drawn-out period of stagnation before any recovery is in sight.

[From the Washington Post, July 27, 1974]

MR. NIXON ON THE ECONOMY

In view of the tremendous impediments under which he spoke, President Nixon's address on inflation went about as far as he could reasonably go. The speech contained nothing likely to make matters worse, and there is a certain virtue in that. It is hardly surprising that there were no large excursions into new policies. The President's chances of getting new legislation, at this point, are approaching zero. More important for the immediate future, his relationship with the labor movement has now deteriorated almost entirely.

The greatest danger to economic policy now is an angry drive by unions in the coming year to catch up with the price increases of the past year. The unions have been remarkably restrained until now, but there are clear indications that the time of restraint is ending. The average worker's income, eroded by inflation and higher taxes, is now lower in real terms than it was last summer. Mr. Nixon did not speak to this uncomfortable point in his address, but in truth there was very little for him to say. A President trusted by the unions might yet hope to work out some sort of further truce. But the AFL–CIO is now calling loudly for Mr. Nixon's impeachment, and preparing a push for very large increases in the next contract negotiations. It is astonishing to remember that as recently as 18 months ago Mr. Nixon seemed on the verge of sweeping most of organized labor into an alliance with the Republican party. That opportunity has now vanished, and with it the administration's ability to enlist the unions in its plans.

The President led his audience through a dry little explanation of the origins of the present inflation. The chief defect of this version, as history, was its omission of the present administration's role. In response to the recession of 1970–71, and in preparation for the election of 1972, the administration imposed the largest budget deficits that we have ever had in peacetime, and a tremendously rapid increase in the money supply to hold down interest rates. "We have worldwide inflation because people's demands too often are translated into a supply of votes, not a supply of work, saving, initiative and innovation." Votes, indeed? In recent days the administration seems, curiously, to be reproaching the voters for having seized what Mr. Nixon offered them two years ago.

Mr. Nixon is right to show concern over this country's rather low rate of saving. But it is hard to make a persuasive case to the average family to save more, when the inflation in consumers' prices is running around 13 per cent a year and the maximum interest available to most small depositors is around 6 per cent. A net erosion of savings at a brisk 7 per cent a year is not much of an inducement to the thrift that the President rightly urged. One element in any successful program to increase savings will have to be better protection for the savers.

To make any large change in economic policy now, Mr. Nixon would need a measure of public trust and support that is foreclosed to him. He would have to invoke that part of the presidential authority that is invisible and tacit—the part that draws citizens to do more in the public interest than the law requires. For Mr. Nixon, that part of his power is now irrevocably gone.

The administration's prsent policy is not particularly inviting, but it is probably the best available in a political vacuum. It amounts to running the economy with a large degree of slack. There is going to be some growth—or at least everybody hopes so—but a good deal less growth than the historic trend that represents the country's long-term capability. Among the things to which Mr. Nixon found it wiser not to refer on Thursday evening was the word "recession." We have been going through a modified recession and, while the administration's plan calls for a slight improvement, there is not going to be any very visible change in the climate.

Any real improvement in the country's economic leadership will probably have to wait until the next President takes office, whoever and whenever that will be. There is not really much more that can be done by technical adjustment, cranking the various valves and levers at the Treasury and the Federal Reserve Board. Real improvement will have to wait for a President who can establish some degree of confidence between himself and the rest of the population.

In political terms, the administration's essential difficulty is that most of the country has suffered a small but perceptible reduction in its standard of living over the past year. The prevalent mood is wrathful and suspicious. To persuade the most powerful of the unions not to set off in an endless chase after steadily rising prices, the next administration will have to find convincing ways to intervene in behalf of working people. It will have to demonstrate that there are other and better ways of catching up.

One obvious way is through tax reform, lightening the burden at the lower end of the ladder. It becomes particularly urgent to mitigate the grossly regressive Social Security tax structure, the unfairness of which becomes more important as the size of the tax gets steadily larger.

Mr. Nixon, in this speech, helped by promising nothing that he cannot deliver. The present prospect is a somber one of very high interest rates, a growing shortage of housing, and probably higher unemployment to come. This policy will be tolerable for a short time, but not indefinitely. The leaders of both parties now have an obligation to begin devising policies that look to a longer future.

[From the Wall Street Journal, July 16, 1974]

BROKEN RUDDER?—CONFIDENCE IS EBBING IN WHITE HOUSE ABILITY TO CONTROL INFLATION

(By James P. Gannon)

WASHINGTON.—"The whole bloody exercise was no more than a sham from the beginning."

A disillusioned and disgusted Nixon administration economist, who has become convinced that the White House lacks the political nerve to stick to a stern anti-infla-

tion policy, is venting his frustration. As he sees it, all the White House meetings, paper shuffling and official pronouncements about severely cutting the government's budget are just so much public relations.

"The old-time religion looks like rhetoric," he sneers, using the catch-phrase that administration officials apply to their policy of budgetary and monetary restraint. In his view, the government's anti-inflation strategy is in danger of coming unstuck, and the fight to control inflation looks like a losing battle.

This economist's dismay and bitterness may be excessive, but they are symptomatic of a widespread sense of frustration in Washington economic circles these days. Confidence in the government's ability to control spiraling inflation seems to be ebbing, even among the men in charge of the fight.

THE ELEMENTS OF FRUSTRATION

The frustration springs from three main elements:

The present anti-inflation approaches are running into trouble. Disarray in both the bond and stock markets is jeopardizing the Federal Reserve Board's restrictive credit control, and upward pressure on government spending threatens to overwhelm the administration's efforts to tighten up.

The administration doesn't seem to have any workable policy alternatives to its present course. It has rejected such inflation-fighting techniques as tax increases, wage and price controls, and credit rationing. But critics of the administration, in Congress and in distressed industries pinched by current policy, also seem short of specific ideas and fall back on demands that Mr. Nixon exert more "leadership."

Even if some bold new strategy to conquer inflation could be devised, there is widespread doubt that it could be put into effect. The consensus of congressional and administration observers is that the Watergate-crippled President lacks the leadership to rally the nation around any policy calling for austerity or sacrifice, whether through higher taxes, more saving, less spending or wage restraint.

DRIFT AND DEFEATISM

Thus, today's economic mess is essentially a political mess, many contend. "The economy is in serious, serious trouble, and at the heart of it is a lack of confidence" in the government, says Democratic Sen. Henry Jackson of Washington. That view isn't just a partisan one. Many congressional Republicans, including Sen. Jacob Javits and Rep. Barber Conable of New York, complain of "a sense of drift and defeatism" in economic policy and a lack of strong action by Mr. Nixon.

"We have this crisis of confidence," a White House economic official concedes. "Until we can demonstrate our policy is working, I don't see why anybody should believe us."

Responding to the rising pressure to "do something," the White House is engaged in a flurry of highly visible economic consulting and planning. President Nixon has begun what is billed as a series of meetings with businessmen, economists and others to solicit ideas on additional steps to fight inflation. He is also holding an extensive round of meetings with his advisers on the economy, which White House press spokesmen say is Mr. Nixon's No. 1 concern right now.

Press Secretary Ronald Ziegler said in San Clemente, Calif., yesterday that Mr. Nixon and his aides are concentrating on ways to restrain federal spending. (Federal Reserve Board Chairman Arthur Burns called meantime for a slash in the government's budget, lower capital-gains taxes and voluntary wage-price controls. See story on page 3.) The President, Mr. Ziegler indicated, is likely to make another speech on the economy next week, but most administration officials aren't looking for any dramatic new moves.

"I hope we won't do something just to be seen doing something," White House economist Herbert Stein says. "I don't think we are in a situation of panic" despite rumors of bond-market chaos or banking-system collapse, he says.

Another turnabout on economic policy would be a mistake, adds Sidney Jones, a White House economic aide. "That sort of zigzagging hasn't served us well in the last four or five years," he says, referring to previous switches in policy.

WILL THE POLICY COLLAPSE?

While they are opposed to any major switch in anti-inflation strategy, many key administration advisers are growing worried that the present policy is in danger of collapse. Politics and panic threaten to undermine the strategy of budget restraint at the White House and credit restraint at the Federal Reserve.

Politics is the problem for fiscal policy. Administration economists fear that their plans to lop $5 billion from the $305 billion federal budget for the fiscal year that began July 1 are going awry. "The big struggle we have now isn't getting the $305 billion down to $300 billion but to keep the $305 billion from becoming much bigger," Mr. Stein says.

A combination of congressional budget actions, extra administration spending plans and the effect of inflation points toward a spending total of $310 billion to $315 billion, insiders say. "We face some really hard decisions" on ways to keep spending from swelling, a budget official says.

But the political problem is that Mr. Nixon appears reluctant to make hard decisions. A tipoff came last week when the President chose to sign, without protest, a veterans' education-benefits bill that is likely to add more than $700 million to this year's spending. Some economic advisers had urged that he veto it to maintain the credibility of the administration's budget posture, even though Congress probably would have overturned the veto of such a politically popular measure. Mr. Nixon's political advisers, who urged him to sign it, prevailed.

This leaves some officials wondering whether the old-time budget religion is anything more than a lot of empty preaching. "There is a real, genuine question as to whether we are going to succeed in practicing the old-time religion" as opposed to "preaching it," economist Stein says. He and Treasury Secretary William Simon are urging strong actions to show that the budget posture isn't a sham—vetoes of spending bills, major program cutbacks and the like.

Mr. Simon is urging a politically explosive package of more than $20 billion of spending cuts for the current fiscal year, whacking hard at such usually untouchable programs as Social Security benefits, housing, revenue sharing and highway building. Even Republican congressional leaders have "gasped" at the Simon austerity outline, which the Treasury chief has been pushing behind the scenes on Capitol Hill and at the White House, insiders say. His attitude, they report, is that either such cuts must be made or the government should "quit playing games" that only look like budget cutting.

But others in the administration aren't taking such a hard line. Roy Ash, director of the Office of Management and Budget, emphasizes the difficulty of cutting the budget, not the urgency of the task. Mr. Ash has been much more cautious than others in promising any actual reductions. Budget cutting "is Simon's plan, not Ash's" an OMB man says. "Simon has put Ash in a tough spot on this," he says, contending that Mr. Ash can't disagree with the goal but is skeptical that severe budget cuts are realistically possible.

While politics is the peril for fiscal year policy, panic is the threat to the Fed's tight-money stance. Though the stock market last Friday snapped smartly out of its slump, it leveled off yesterday and the Dow Jones industrial average, closing at 786.61, remained about 100 points below the 1974 high it touched last March. As interest rates soar, bond offerings go begging and rumors feed investors' fears, pressures are increasing on the Fed to ease its restrictive stance.

Some economists at last week's White House gathering with Mr. Nixon urged the Fed to ease up before a financial panic or a recession occurs. Others backed a hold-firm policy, participants in the session say.

One economist urging an easing in Fed policy is Otto Eckstein, former White House adviser under President Johnson. He spelled out his worries in a recent analysis laced with grim language.

"The Federal Reserve can't stay in this extreme posture for many months," Mr. Eckstein warns, because sky-high interest rates before long would cause a disastrous outflow of savings from thrift institutions into higher-yielding short-term investments. This outflow "would become so enormous that it would topple the financial system," he contends. "The thrift institutions would lose accounts so massively that they would go under or require federal rescue."

Another economist, Republican Alan Greenspan, has been issuing similar warnings. Mr. Greenspan, who is expected to replace Mr. Stein as chairman of the President's Council of Economic Advisers this summer, has a theory that the nation's savings institutions will rupture with "massive withdrawals' when short-term interest rates exceed 12%—close to their present levels.

In such an event, Mr. Greenspan believes, the Fed would have to start pumping money into the banking system, creating "such an expansion in the money supply as to doom all reasonable efforts at future restraint." He warns: "Such a crisis might well put us beyond the scope of any conventional solutions to our inflationary problems within this decade."

Fed officials, of course, won't comment pubicly on such dire prospects. But it is known that the Fed is prepared to switch quickly to an easier-money posture if signs of shakiness in the banking system grow. Insiders say the Fed won't allow a large financial institution to fail in the present nervous atmosphere. The Fed would choose an unwanted switch to easier money rather than risk financial panic.

MILITARY EDUCATION PROGRAM

Mr. GOLDWATER. Mr. President, many of my distinguished colleagues will recall that last fall during our consideration of the fiscal year 1974 military procurement authorization bill I offered an amendment to allow the military services to send regular line officers to law school. At that time, I pointed out the need for such legislation was unquestionable—that while the legal workload for all the services has been substantially increasing as a result of new responsibilities in military justice, procurement law, domestic relations, and civil rights, the ratio of career military lawyers has been dangerously declining.

Mr. President, I was gratified that the Congress agreed with my proposal and endorsed it as a first step in satisfying the military's legal mission. I recognize, as I did during last year's debate, that the legal funded education program is not the full solution to the Armed Forces' problem in securing a sufficient number of qualified, experienced legal officers. It is not a substitute, for instance, for proficiency pay which I would recommend

to my colleagues as the best long range solution to this critical problem. However, the program has served as an important start in providing the services with a basic source of service-oriented lawyers.

Mr. President, I feel it is appropriate that the Congress be advised as to just what has been the military's initial experience in attracting qualified officers into this new program. In this regard, I believe the results of the Air Force are a good indication of what the Congress can expect in return for our modest investment in this area.

One hundred and twenty-one officers applied for the 25 spaces allocated to the Air Force for fiscal year 1975. While the number of applicants is impressive, even more so are the statistics with respect to the academic backgrounds and potential of these 25 officers.

For example, their average law school admissions test score was 700 compared to 525 for the national average of all students tested between 1970 and 1973. I might add, this score is even substantially higher than the average score of the students accepted by the leading law schools in the Nation. Furthermore, the average grade point average of the 25 selectees was 3.28.

Mr. President, I am very pleased with this initial undertaking of the funded legal education program. Moreover, I am proud of these young officers, and others like them in the Army, Navy, and Marine Corps, who will serve as the services' representatives at the leading law schools throughout the country. I was particularly gratified to learn that two of the selectees, 2d Lt. Dorothy B. Tyler and Capt. Glenn H. Schlabs, are assigned to bases in my home State of Arizona.

Mr. President, I believe the selection of these fine young officers is a special achievement in itself which deserves our congratulations and recognition. Therefore, I ask unanimous consent that their names and duty stations be printed in the RECORD.

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

FISCAL YEAR 1975, FUNDED LEGAL EDUCATION PROGRAM SELECTEES

Capt. William C. Henry, Langley AFB, Virginia.

1st Lt. James W. Swanson, Sheppard AFB, Texas.

Capt. Thomas G. Abbey, Hickam AFB, Hawaii.

Capt. Edgar G. Parr, March AFB, California.

1st Lt. Edward J. Quinn, Mather AFB, California.

Capt. Glenn H. Schlabs, Williams AFB, Arizona.

2d Lt. Larry L. Sharrar, Boeing AFPRO, Washington.

Capt. George S. Zier, Randolph AFB, Texas.

Capt. William K. Atlee, Jr., Bergstrom AFB, Texas.

Capt. Maurice A. Deaver, Jr., Travis AFB, California.

Capt. Daniel L. Hawkley, Offutt AFB, Nebraska.

Capt. Dwight A. Moore, Carswell AFB, Texas.

2d Lt. Dorothy B. Tyler, Luke AFB, Arizona.

1st Lt. Harry M. Jayne, University of Missouri.

1st Lt. David W. Kerber, Duke University.

Capt. Ralph J. Lee, Charleston AFB, South Carolina.

Capt. Richard H. L. Marshall, Offutt AFB, Nebraska.

1st Lt. Thomas J. Fiscus, Ohio State University.

1st Lt. Frank J. Spinner, Minot AFB, North Dakota.

Capt. Michael G. Torgeson, McGuire AFB, New Jersey.

1st Lt. Edwin B. Whitewolf, Kirtland AFB, New Mexico.

1st Lt. Michael McDonald, Rickenbacker AFB, Ohio.

1st Lt. Clinton C. Pearson, MacDill AFB, Florida.

Capt. Wade B. Morrison, Tulane University.

Capt. Donald A. Nolte, Ramstein AFB, Germany.

ATTACK ON SOCIAL SECURITY REBUTTED

Mr. EAGLETON. Mr. President, in recent weeks a series of articles on social security by Warren Shore, a reporter for Chicago Today, has appeared in a number of newspapers around the country, including the St. Louis Post-Dispatch.

These articles are distinguished by factual inaccuracies, misleading statements, and an almost total lack of understanding of the fundamental principles and purposes of the social security program. Nevertheless, Mr. Shore has apparently had some success in raising questions in the minds of his readers as to the value of social security to the American people and the financial soundness of the program.

There has recently come to my attention some comments on the Shore articles prepared by Richard E. Johnson, professor of risk management and insurance at the University of Georgia, whose professional experiences also includes 20 years with the Prudential Life Insurance Co. Professor Johnson is not affiliated in any way with the Social Security Administration, and I understand his rebuttal was written on his own initiative for publication in the Atlanta Constitution.

Mr. President, I ask unanimous consent that the paper by Professor Johnson entitled "Social Security: Still a Good Value" be printed in the RECORD.

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

SOCIAL SECURITY: STILL A GOOD VALUE

(By Richard E. Johnson)

Newspaper readers around the country have recently been exposed to a series of articles condemning the social security program. These articles, written by a Chicago newspaper reporter, Warren Shore, are not only inaccurate and misleading, but an element of viciousness can almost be detected in the manner in which the reader is given isolated half-truths to the exclusion of all other pertinent information. One is prompted to question what motivated this bias.

For example, Mr. Shore writes of Jeff Alfred, who, at the age of 23, contributed $676 (matched by an equal amount by his employer) to the Social Security Administration as a tax on his earnings this year. He then comments that should Jeff die, less than $300 would be paid to his wife as the total settlement of his account. This seems inequitable, but let us look at another possible example of a young married couple. Bob Miller (age 23) is a successful salesman and earns $13,200 both this year and next. At the end of that period he is killed in an auto accident and leaves behind his wife, Mary, and twin children, age one. It is possible for Mary and the children to receive social security benefits in excess of $1,844,715. This total benefit would only be paid to the Millers if the children were disabled during childhood and continued so until age 65. (An even greater benefit would be paid if they lived longer.) It is assumed in this calculation that a yearly increase of 3% in benefits is made to offset increased inflation.

Thus, for a contribution of slightly over $1,500, Bob's family profited to the extent of $1.8 million. Even if neither child had been disabled, a benefit of $819 per month would have been paid immediately and this monthly benefit would have been increased as the cost of living increased. The mother would have received this until the children were 18 and they would have received almost this amount had they continued their education until age 22, the total benefit paid being about $280,000.

No one will defend the first part of this example as being reasonable or typical—twins being disabled for life. It is, however, just as typical as many of the examples used by Shore in his series. Jeff Alfred's widow would have had to have been childless to have received the benefit stated by Mr. Shore. Although this is possible, it does not represent the average family being covered by the Social Security Act. Instead of looking at either the "less than $300 pay-off" or the $1,800,000 benefit," let us instead look at the total program and investigate its purpose and what it has done for our society.

In the early 1930s many schemes were developed to solve the crisis of the depression. One of the most popular movements was known as the Townsend Plan. This plan guaranteed $200 per month for all citizens 60 years of age or older The only obligation on the part of the recipient was to promise not to work and also to spend his $200 within 30 days. It was assumed that this great influx of dollars into our stagnant economy would lift us up by our bootstraps and solve our economic problems. The requirement that the retiree not work supposedly would guarantee work for many younger people who could not find employment.

Although the Townsend Plan never became law, the Social Security Act did become law and benefits were paid to retirees prior to World War II. Initially only retirement benefits were to be paid and those only if the insured individual did not work in employment covered by social security. The same philosophy fostered by the Townsend Act permeated the Social Security Act—"Create Jobs for the Young." As the program expanded and started providing survivor benefits to widows with children, the same philosophy was continued. If a mother with small children was widowed, her right to full benefits depended upon her terminating "covered" employment. Even at this time, however, the benefits paid on the children's behalf were still continued regardless of whether the mother worked or not.

Today, almost 40 years later, the Social Security Administration follows the same pattern laid out initially—"If a parent is lost to a family, the surviving children need a full-time survivor parent as a guardian." If this is no longer the belief or attitude of the population, then the approach can be modified, but not without cost. The present cost projections of the social security program (OASDHI) consider the fact that some participants will not claim their benefits, preferring to work rather than to receive a social security benefit. If the "retirement test" were eliminated for all groups, retirees and survivors, the estimated increased cost would be about $4 billion. The ultimate re-

sult would be an increase in the social security payroll tax.

Perhaps this is the proper time to look at the cost of the program. Mr. Shore, in his series, constantly compares the cost of commercial insurance with that provided under OASDHI. His major failing is that he constantly compares the cost or the tax for the whole social security program with the premium charged for isolated coverages by the commercial insurance industry. Your author would be one of the last to criticize marketing methods used by the commercial insurance industry.

Having been a part of it for 20 years and having made my living teaching the intricacies of the disclipline for the last 10, I still find it a most viable and necessary component of our society. But, it cannot compete with a social insurance program. Social insurance is mandatory, there are no acquisition expenses in the form of sales commissions and underwriting expenses. Everyone must join the OASHDI system and their tax added to the employer's tax is automatically forwarded to the government.

Due to the great savings generated by the efficiencies mentioned above, social security cash benefits are administered for about 2 percent of the total tax income. Since the tax monies in the trust funds earn 5.6 percent interest per year, over 103 percent of all social security tax revenue is available for benefit payments. An average of 98% of all social security tax revenue is actually paid out yearly in the form of benefits to its insureds or their dependents. The remaining 5 percent plus has been added to the trust fund in anticipation of further increases in the benefit formula.

For the individual to continue receiving these most favorable rates, the program must continue as a compulsory program. It cannot exist if voluntary choice of participation is extended the public. If free choice were implemented, two groups would discontinue the coverage—the wealthy and the very poor. The wealthy would discontinue the coverage because they really do not need it and because of the slight redistribution effect of the program (slightly higher benefits per dollar of tax for the lower income). The poor would discontinue because they realize that our society will not let them starve and will take care of them via the welfare route. Thus, the large group of middle income earners will not only pay for their own future security, but will also be obligated to pay most of the tab for the increased welfare costs.

How does the life insurance industry compare in terms of costs and benefits? On the average, about 85 percent of premium income is returned in the form of benefits. The balance is required for administration and acquisition costs. This is not a large charge in comparison with the rest of the insurance industry. For most segments of the industry, expenses vary between 25 and 45 percent of premium income. Thus, even though the life insurance industry is doing a great job in comparison to the rest of the insurance industry, the Social Security Administration is doing a phenomenal one, almost beyond belief for a governmental agency.

Perhaps one of the biggest problems confronting the individual is that of comparing costs and benefits of the social security program with those provided by the commercial insurance industry. The major benefits provided by the OASDHI program include:

Monthly retirement benefits to retired workers.

Monthly benefits to disabled workers.

Monthly benefits to husbands or wives of retired workers.

Monthly benefits to widows and widowers of covered workers.

Benefits to widowed mothers.

Benefits to disabled widows and widowers.

Benefits for children of retired workers.

Benefits to children of deceased workers.

Benefits to children of disabled workers.

Benefits to parents of workers.

The entire Medicare benefit program.

Since these benefits are so varied and complex, no insurance company will offer all or duplicate benefits. But even when cost or price comparisons are made with similar contracts, there is no commercial insurance company that can compete, price wise, with the Social Security Administration. Perhaps an example is called for. When Mr. Shore speaks of the term policy as being the equivalent of the survivor benefit being paid for children under the age of 18, he is incorrect. When a 20-year term policy is purchased from a life insurance company to protect against premature death during the critical period while his children are young, he receives protection for that period.

If, however, he had additional children later in life, the original contract is only good if it is renewable. Even then, it will only be renewed at a substantially higher price. The Social Security Administration makes no demands upon the individual as to his age or the time in life when he has his children. The only requirement is that children exist at the time of death, whether this be when he is 25 or 65. How does one compare the premiums charged for these "similar" coverages? It is almost impossible for anyone, let alone the interested insured.

It is now time to answer some of Mr. Shore's charges. In his first article, he comments on the increase in social security taxes during the past 20 years. He mentions an 800 percent increase in the social security tax, while benefits were increased only 300 percent. His figures are faulty. He is correct in that the total tax receipts did, in fact, increase by 800 percent; but, the benefits paid during this same period increased by almost 1,000 percent. Benefits actually increased more than contributions, not less, as his article stated.

Mr. Shore also states that the tax rate of the social security program has discouraged savings. He stressed the fact that in 1942 savings were at a very high level while only 3 years later, in 1945, savings had started to drop. He neglects to mention that in 1942 about the only thing available for sale was a tank or a battleship while in 1945 Germany had already surrendered. It is very difficult to understand how he finds a casual relationship between the program as now constituted and lack of savings. Many people are not saving today because of a drop in value of the dollar due to inflation. It is not the fault of the social security program that the dollar has depreciated. It is to the credit of the program that it guards against the failure of the dollar by virtue of it inflationary hedge. (A benefit that increases in value to maintain a relatively constant relationship in purchasing power.) There is no evidence to indicate that larger tax rates or salary bases have caused reduced savings by the individual.

If one income group has profited more than others by the Social Security Act, it is probably the "great middle class." This is the group which would suffer most if required to provide for their aged parents and relatives. As stated previously, it is no major burden for the wealthy, and for the poor it is impossible. The group in the middle would be forced again to provide for their own, and also for those who found it impossible. When Mr. Shore criticizes the situation where the middle-aged worker must pay the bulk of his security cost during his working years, the question must be asked when does he expect the individual to pay these costs? If he waits until retirement, it is too late. Adequate preparation must be made in advance to guarantee that which our people have come to expect.

Mr. Shore also considers the plight of Mrs. Marion Poteka, whose husband died and, due to low earnings in his early years, had an average taxable income of only $6,600. He states that her benefit check for her two children and herself amounted to only $435 per month (incidentally, this is tax free). For this amount to have been correct, death would have to occur prior to 1971. To illustrate the advantages of the "inflation hedge" provided in the Act, the benefit would have been $522 in 1972 and about $580 today. This benefit will continue to increase as the cost of living increases.

Inasmuch as this income is tax free and inasmuch as there is no longer any expense involved in securing this income or in providing for deceased spouse, this should prove to be adequate income, assuming her husband took some steps to supplement it with other private insurance. The reduction in benefits as depicted in the article ($435 reduced to $220 when Mrs. Poteka went to work) is simply not true. If Mrs. Poteka works and earns the total $7,450 cited in the paper, she would still receive about $360 per month if death occurred prior to 1971 and about $480 if death occurred today.

For many years the insurance industry has tried to convince the public that a reasonable aim for retirement is one-half the gross income prior to retirement. It is assumed that the cost of going to work, living away from home, and paying income tax will take 25 to 35 percent of one's gross income. In addition, since a retiree no longer has the financial obligation of paying social security taxes, retirement insurance premiums or other pre-retirement expenses, this income level is usually deemed reasonable.

How is the Social Security Act meeting this challenge? Actually, the benefits promised are very close to that mark. A married insured who has earned an average of $8,000 per year which has been subject to social security taxation will be entitled to $558 per month or about $6,696 per year, probably more than this couple realized on the gross pay of $8,000 prior to retirement. Similarly, a married individual who averaged $6,000 under the Act would be paid $449 monthly or $5,388 per year. If either the retired worker or his spouse died, the survivor would continue to receive about $3,600 per year.

The beauty of the present program is that there is no need for the retiree to worry about inflation. Today an automatic provision of the Act increases benefits as the cost of living increases. No commercial insurance contract can provide that benefit. The closest approximation would be the variable annuity which is offered by some companies. This provides an inflation hedge if the value of common stock keeps pace with the cost of living. In recent years there has been almost no correlation between the cost of living and the value of common stock. The Social Security Act removes this worry from our retired citizens.

Primarily due to faulty assumptions and incorrect data, Mr. Shore comes to the conclusion that the program is bad and that it is even bankrupt. There is no way that anyone could consider the social security program bankrupt. It is true that the trust funds do not have adequate funds on hand to pay all future obligations today, but then neither do most private pension plans. The trust funds contain in excess of 50 billion dollars, sufficient to pay approximately one year's obligations.

During that period it will collect sufficient revenue to pay the following year's benefits. This has been the basic technique over most of the history of the program. Most people would be far more concerned over some governmental agency having 400 to 700 billion dollars to play with. Disregarding what this might have done to the economy (some suggest that even World War II would not have brought prosperity if burdened by a fully reserved social security trust) think what an enjoyable time our congressmen would have had in increasing the debt limit sufficiently to provide securities for the social security trust

to invest in. Perhaps an excerpt from the 1971 Advisory Council on social security's report might make this clear. The advisory board, consisting of economists, businessmen, and at least one executive from a major life insurance company, stated in its report:

"The test of actuarial soundness for a social insurance system is whether the expected future income from contributions and interest or invested assets will be sufficient to meet anticipated expenditures for benefits and administrative costs over the valuation period. The concept of actuarial soundness as it applies to a compulsory social insurance system differs considerably from the concept as it applies to private insurance and private pension plans, although there are certain points of similarity, particularly with the latter. A private insurance company must have sufficient funds on hand so that it will be able to pay all existing obligations. Such funding, however, is not necessary for a national compulsory social insurance system and is frequently not provided for in private pension plans, which may or may not have funded all the liability for prior-service credits toward benefits.

"Because compulsory social insurance is assured of continuing income (new workers must come into the program), it does not have to build up the kind of reserves that are necessary at all times in an institution that cannot count on current income to meet current obligations. It is proper in a social insurance program to count both on receiving contributions from new entrants to the system and on paying benefits to future beneficiaries, as well as those now on the rolls."

Thus, social insurance need only maintain funds sufficient to serve as contingency reserves. The assets of the social security funds serve this purpose.

Throughout this paper, most of the space has been devoted to pointing out the errors and omissions in Mr. Shore's articles. It would be just as much in error for me not to admit the shortcomings of the Social Security Act as that for which I have criticized Mr. Shore. Nothing is ALL good or ALL bad. There are areas in the Social Security Act which need improvement and further study. It is true that the single person or the married couple without children receive far less in protection than the typical married couple with one or more children. By the same token, less benefit for dollar contributed is provided the married couples where both parties work and pay social security taxes. The problem of having retirement benefits reduced if the retiree continues receiving earned income is also worthy of consideration. Of the 22 million people eligible to receive retirement benefits, only 6.4% are having any amount of their benefit withheld due to the earnings test. Although more people might work if the earnings test did not exist, it is reasonable to assume that the number would not exceed a total of 10%. Although this does affect the people concerned, the resulting benefit for the other 90% and the effectiveness of accomplishing the basic aim of the program, that of taking older people out of the labor market, is not disputed.

The criticisms levied by Mr. Shore are not new. They have been with us in some fashion since the initial implementation of the Act. Committees are constantly studying the program, its projections, and possible changes. Recently, James B. Cardwell, Commissioner of Social Security, issued the report of the trustees of social security. This 1974 Trustees' Report shows a long-range actuarial deficit for the OASDI program of about 3% of taxable earnings over the next 75 years. Much of this projected deficit is caused by a change in life style of many of our younger married couples, and the resulting decrease in birth rates for the Nation. We are now approaching a "no-growth" birth rate and it is important to know what effect zero population growth might have on the future levels of social security income and outgo.

Although no major impact will be experienced until the 21st century, the entire area of financing will be the main subject of study by the new Advisory Council on Social Security. Their recommendations will be submitted to the Congress by the end of the year. Therefore, by the end of 1975, in all probability, Congress will be enacting legislation to help solve this problem of the 21st century.

Over the history of the Social Security Act, many changes have been made, faults corrected, and more changes will undoubtedly be made in the future. The solution to the problems faced by the Social Security Administration cannot be solved by Mr. Shore's suggestions. Should the government ever make the decision to follow the recommendations of Mr. Shore—discard payroll tax for social security and buy government bonds— the most incredible fiscal confusion imaginable would result. All of the benefits of the social approach to insurance would be lost and all of the problems of Federal bureaucracy would remain.

Social security today is paying $4.6 billion a month in benefits to 30 million people.

Ninety-one percent of the people age 65 and over are receiving social security benefits or are eligible to receive them.

Ninety-five percent of all children under age 18 and their mothers will receive benefits if the family breadwinner dies.

Eighty percent of the population between the ages of 21 and 64 are eligible for disability benefits in case of a severe and prolonged disability.

Anything which can and does provide so much for so many cannot be bad. To the contrary, no better plan has yet been offered to us. Certainly, Mr. Shore's suggestion is not a better alternative.

MRS. MARTIN LUTHER KING, SR.

Mr. BEALL. Mr. President, I want to join with many of my Senate colleagues in expressing my profound sorrow and shock at the shooting death of Mrs. Martin Luther King, Sr. and a church deacon, Mr. Edward Boykin, on June 30.

Once again, the King family has been the target of violence. Once again, all Americans ask "why?" And once again, there is no reasonable answer.

Mrs. King was more than the mother of a great civil rights leader. She was a women who had dedicated her life to the highest ideals of our Nation, and to the nonviolent righting of so many wrongs.

Her untimely death is a tragedy, but her accomplishments will long be remembered. I offer my tribute to Mrs. King, and hope that America will profit from her example.

A COMPREHENSIVE NATIONAL HEALTH CARE INSURANCE PLAN IS NEEDED

Mr. INOUYE. Mr. President, as we all know, the costs of providing medical care and services in this country continue to rise at a tremendous rate. We in the Congress will soon have to face this problem headon in a debate over legislation to provide a comprehensive national health care insurance plan.

I am pleased to say that my home State of Hawaii is the first State of the Union to move toward adopting a comprehensive health plan by passing a bill which would guarantee prepaid health insurance coverage to all workers employed at least 20 hours a week and who have worked over 4 months. Moreover, this bill realizes the concept that every resident of Hawaii has the right to proper health care.

I encourage all my colleagues to recognize the provisions of this bill which might serve as a reference for the drafting of similar legislation on a national scale.

I now ask unanimous consent that the text of the prepaid health care act, an article from the Honolulu Star-Bulletin and some questions and answers of the Hawaii Prepared Health Care Act, be printed as a part of the RECORD.

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

[From the Honolulu Star-Bulletin]

PREPAID HEALTH INSURANCE BILL FINALLY PASSES

(By Buck Donham)

The State Senate and House yesterday passed and sent to the Governor a landmark bill that would provide prepaid health insurance coverage to thousands of workers not now covered by such plans.

The bill, hung up in joint conference committee for an entire year, passed the Senate by a unanimous vote. In the House, only four Republicans—Reps. Ralph Ajifu, John Medeiros, Howard K. Oda and Andy Poepoe—voted against it.

Democratic Rep. Hiroshi Kato, manager of the House conferees, said the bill will guarantee health coverage to about 40,000 workers.

And he said the bill established the concept that "every resident of this State has the right to good health care."

He said the Legislature, which has been studying the matter since 1971, has "for too long been neglecting to fulfill" its duty to provide adequate health care to its constituents.

The measure, if signed into law, would guarantee prepaid health insurance coverage—along the lines of Kaiser or HMSA plans—to most workers employed at least 20 hours a week and working at least four months.

There are exemptions. They include workers now protected by plans whose benefits equal those outlined in the bill; seasonal pineapple workers; federal, State and county employes, who are already covered; dependents already covered by such plans; and recipients of medical assistance.

The employer and the employe would be required to contribute equal amounts to cover insurance premiums.

But there are exceptions.

If an employe's scheduled contribution amounts to more than 1.5 per cent of his wages, his employer would be required to pick up the difference between that percentage and what the premium costs.

The bill would also set up a special premium supplementation fund to help out small employers.

Employers who have fewer than eight employes working for them would not have to put into the plan more than 1.5 per cent of the total amount of wages they pay so long as the excess above that percentage amounts to more than 5 per cent of the employers' income before taxes.

If the excess is above 5 per cent, the special fund would pick up the difference between the 1.5 per cent and the employers' regular share of the cost of the premium.

The bill also would require an employer to pick up the employe's half of the premium for at least three months during the time the employe is sick and can't work.

If an employe works for more than one company, it would be up to him to decide which firm would be considered the primary employer and therefore liable to pay half the premium costs.

But it would be up to the employer to decide which kind of health plan—Kaiser or HMSA—would be used.

THE HAWAII PREPAID HEALTH CARE ACT—SOME QUESTIONS AND ANSWERS*

The new Hawaii Prepaid Health Care Act is a law that provides an unprecedented kind of state social legislation. By filling in the gaps in prepaid health insurance coverage, the law is intended to guarantee that every regular employee in the State will have the protection and security of coverage under a prepaid health care plan. The following "Questions and Answers" may help in understanding the Act. If any employer or employee wants to know about specific situations, rights or obligations, or legal rights or remedies under the Act, he should consult with an attorney or the office charged with administering the Act, the State Department of Labor and Industrial Relations.

GENERAL PROVISIONS

1. Q: When does the Act become effective?

A: Prepaid health care coverage under the Act goes into effect on January 1, 1975.

Payment of premiums for the required health insurance also begins on January 1, 1975.

For the administrative purposes of the Department of Labor and Industrial Relations, the Act takes effect upon its approval by the Governor; so that necessary forms can be designed and prepared, rules and regulations can be drafted and promulgated, civil service staff can be recruited and trained, and the Director of Labor and Industrial Relations can select and appoint the members of his Prepaid Health Care Advisory Council.

COVERAGE

2. Q: Who is entitled to prepaid health care benefits under the Act?

A: Employees, only; the Act is employment related, to assure that workers in this State have prepaid health care protection.

3. Q: Does the Act apply to all employees in the State?

A: No, only to regular employees in private employment if they are not covered by a collective bargaining agreement providing for prepaid health care.

4. Q: Who is a regular employee?

A: Anyone who works at least 20 hours a week for one employer, but excluding seasonal work, such as in the pineapple fields or canneries or in coffee harvesting.

5. Q: Why aren't government (federal, state, county) workers covered?

A: They already have available prepaid health care; for example, since 1961 every state and county employee has been entitled to a health benefits plan under a law enacted in that year.

6. Q: Does that mean that as soon as a person is hired by a private employer to work at least 20 hours a week, the worker is entitled under this Act to prepaid health insurance?

A: Besides working at least 20 hours a week to be eligible, a regular employee must receive a monthly wage of 86.67 times the state minimum hourly wage. Since Act 14, Session Laws of Hawaii 1974, will raise the minimum hourly wage to $2.00 an hour by the time the Hawaii Prepaid Health Care Act takes effect, the montly wage of a regular employee must be 86.67 times $2.00 or approximately $174.

There is also a period of eligibility, a kind of probationary period. The employee must establish eligibility for the heatlh care benefits by first working for the employer for four consecutive weeks. After four consecutive weeks of employment, the employer must arrange as soon as possible for prepaid health coverage for the employee.

7. Q: Does the Act have other exclusions from coverage?

A: Yes, there is a long list of exclusions, in addition to the exclusions for government employment, seasonal employment, part-time employment, and coverage under a collective bargaining agreement. Some of the important exclusions are:

(1) Employment for a person's husband, wife, son, or daughter and employment of children under the age of 21 by their mother or father.

(2) Employment as an insurance agent, insurance solicitor, real estate broker, or real estate salesman when the only pay is by commission.

(3) Employees who rely upon prayer or other spiritual means for healing pursuant to the teachings, faith, or belief of any group, such as Christian Scientists.

(4) Employment under programs of the Federal Economic Opportunity Act of 1964.

8. Q: Does the Act require any prepaid health care benefits for dependents of employees such as the employee's spouse and children?

A: No, the Legislature determined that to include mandatory coverage for dependents at this time would be too costly; and, in the case of children entitled to health care benefits under federal programs, if this law provided for their health care benefits, Hawaii would lose the federal share of funding, a substantial amount of money.

9. Q: Then is the Act of no help if an employee wants to provide coverage for his dependents under prepaid health care protection?

A. That is not quite correct. There are features in the Act to encourage coverage for dependents.

(1) For instance, a prepaid health care plan that provides more limited benefits than the plans in the State with the largest numbers of subscribers (HMSA or Kaiser) may be acceptable if the employer pays at least half of the cost of coverage of dependents under the plan.

(2) In the alternative, the Act permits an employee to voluntarily purchase coverage for his dependents in addition to his own mandatory coverage if the prepaid health care plan he is covered by will provide such coverage for an additional premium.

10. Q: I am a Hawaii resident working for a local construction company with 200 full-time employees. Last year, I worked on a construction project at the Honolulu Airport for one month but then was sent to Kwajalein for the remaining 11 months to work on a job our company got. Would I be covered under the Act even though I worked out of state?

A: Yes. The law provides that covered employment includes an employee's entire service performed both in and out of state if the employee's base of operation is in Hawaii or the place from which the employee's work is controlled is in Hawaii.

HEALTH CARE BENEFITS AND PLANS

11. Q: What kind of health care benefits will employees be entitled to under the Act?

A: In general, the Act requires that the health care benefits must include the following basic types of benefits:

(1) In-patient and out-patient hospital care,

(2) Surgical services,

(3) Medical benefits, including home, office, and hospital visits by doctors,

(4) Diagnostic and therapeutic services,

(5) Maternity benefits for employees who have been covered by the prepaid health care plan for at least 9 consecutive months prior to delivery.

12. Q: How do the benefits required under the Act compare with health insurance policies generally available in the State?

A: The benefits required under the Act are very similar to the most popular plans of HMSA and Kaiser, which are the plans in Hawaii with the largest numbers of subscribers.

13. Q: If the prepaid health care plan provided for an employee is not one offered by HMSA or Kaiser (if it is a plan offered by a private insurance company), how can the employee know if the benefits meet the requirements of the Act?

A: The Director of Labor and Industrial Relations, with the advice of the Prepaid Health Care Advisory Council, will decide if the plan includes health care benefits equal to, or "medically reasonably substitutable" for, the benefits under the HMSA or Kaiser plan. For example, a prepaid health care plan may be designed that would include some dental services and, instead of 120 hospital days a year, would include only 90 hospital days a year. The Director then would consult with the Advisory Council to decide whether the proposed additional dental service is "medically reasonably substitutable" for the decrease of 30 hospital days.

14. Q: What prevents the employer from selecting a prepaid health care plan that includes all the required health care benefits but has special provisions that are disadvantageous to the employee, such as special limitations or deductibles or extra payments imposed on the employee, in connection with receiving the health care benefits?

A: The Act clearly states that the Director of Labor and Industrial Relations is to take into account not only the types and quantity of benefits, but also the costs of the premiums, limitations on reimbursability, including deductibles, and required amounts of co-insurance in determining whether a prepaid health care plan qualifies as a plan providing the mandatory health care benefits required under the Act.

15. Q: What if the employer wants to switch plans?

A: As between an HMSA-type plan which reimburses expenses, and Kaiser-type plan which furnishes the health care, an employer's election between the two types is binding for one year. As for switching plans within each classification, there is no prohibition, so long as the plan is in compliance with the Act.

16. Q: What if the employee wants to switch plans?

A: The choice of plan is up to the employer. However, the employee shall not be required to contribute a greater amount to the premium than he would have to contribute had the employer elected coverage with the contractors providing the prevailing coverage of the respective type in the State.

17. Q: May employers join together in providing a plan?

A: The Act authorizes employers to form associations for the purpose of jointly providing prepaid health care protection for their employees with the contractors authorized to provide such coverage in the State.

18. Q: I am an employee of a national company which has a health plan not in compliance with this Act. Does the company have to change its entire health plan just to comply with Hawaii's law?

A: No. But the company has one year in which to adjust its plan so that its Hawaii employees are covered in compliance with Hawaii's law. What it does about its employees in other states is not Hawaii's concern.

PREMIUM COSTS

19. Q: Who is responsible for paying the premium for the required prepaid health care plan?

A: Both the employee and the employer

* May 1974—The Legislative Reference Bureau gratefully acknowledges the assistance of Patricia K. Putman, formerly with the LRB, for her formulation of most of these questions and answers.

share the cost; and in certain situations the State also contributes, as a subsidy to marginal small employers. The cost allocation in most cases goes as follows:

(1) Employer contributes at least one-half of the cost of the premium.

(2) Employee contributes, through payroll deductions, the balance, except that an

(3) Employee in no case contributes more than 1.5 per cent of his wages, and

(4) If employee's contribution is less than one-half of the cost of the premium, the employer contributes the whole remaining portion of the premium.

20. Q: In round figures, what are the premium costs involved?

A: According to data gathered in connection with the writing of this legislation, the prepaid health care required in this Act costs about $180 a year for each worker; the amount is roughly the same whether the prepaid health care is under a plan in which the health provider is reimbursed for health services delivered (HMSA type) or is under a plan that actually furnishes the health services (Kaiser type). Following are examples of how the cost sharing works:

Example 1. Employee with wages of $6,000 a year. Employer contributes ½ of $180 or $90 a year ($7.50 a month). Employee contributes ½ of $180 or $90 a year ($7.50 a month).

This example is at the "break-even" wage level where 1.5 per cent of the $6,000 wage equals $90, which is one-half of the cost of the premium.

Example 2. Employee with wages of $9,000 a year. Employer contributes ½ of $180 or $90 a year ($7.50 a month). Employee contributes ½ of $180 or $90 a year ($7.50 a month).

This example shows that a wage levels higher that $6,000, the cost of the premium is a lower percentage of the wages; $90 is only one per cent of $9,000.

Example 3. Employee with wages of $4,800 a year. Employer contributes ½ of $180 or $90 a year ($7.50 a month). Employee contributes 1.5% of wages $72 a year ($6.00 a month). Employer contributes remaining portion of $180 or $18 a year ($1.50 a month).

This example shows the results when the employee's contribution of 1.5% of wages does not equal one half of the cost of the premium. In this example the employer's total contribution is $108 a year or $9 a month.

21. Many workers have more than one job. Who decides which employer must provide the prepaid health care plan and contribute the employer's share of the premium costs in these situations?

A: First, it must be remembered that the Act covers only regular employees (at least 20 hours of work a week for a single employer); so if a "moonlight" or second job is just part-time, not amounting to 20 hours of work a week, there is no problem. If, however, a worker is a regular employee of two or more employers and meets the monthly salary test for each employer, the worker decides which one of his employers will be considered the "principal" employer for purposes of this Act, and that is the employer who must provide the prepaid health care plan and pay the employer's share of the costs of the premium.

22. Does the same rule apply to a government worker (employed by the federal, state, or county government) who moonlights?

A: No, if a worker is a regular employee of a private employer and also a regular employee of the government, the government is the "principle employer". This rule recognizes the fact that government workers have for a long time been entitled to health benefits plans, and this Act is intended not to duplicate benefits provided under other laws.

23. If a worker is a regular employee of two employers, won't each of the employers try to force the worker to select the other employer as "principal" employer because providing the employee with a prepaid health care plan is a business expense to the employer?

A: The Act specifically prohibits employers from using this kind of force or in any way interfering with the employee's choice of principal employer, and an employer who violates the prohibition will be subject to a fine of up to $200.

24. How are premium payments made when the worker is sick, and where the employee's sick leave is used up?

A: These situations are handled under a "continuation" provision in the Act. If the worker is disabled from working because of sickness, or even when he is hospitalized, the employer must continue to pay the employer's share of the cost of the premium, during the time of the sickness or hospitalization. The employer must make these payments for the longer of the following periods:

(1) Three months following the month during which the employee became hospitalized or otherwise disabled from working, or

(2) The period of the employee's sick leave.

The reason for the "continuation" provision is to assist the employee in keeping up his entitlement to health care benefits during the time when he most needs them—when sick or hospitalized.

EXEMPTIONS

25. Q: If a worker already has health insurance or is entitled to health care benefits, does that worker have to be included under this Act?

A: This Act is intended not to duplicate benefits because a person does not need two prepaid health care plans. In the following cases, it is the responsibility of the worker to notify the employer not to provide a prepaid health care plan under this Act:

(1) For a person who is a regular employee of two or more employers, an employer who is not selected as "principal" employer must be notified not to provide the health care plan for that employee.

(2) For a person covered by health insurance or a prepaid health care plan under federal law, such as a person 65 years of age or older who is covered by Medicare, the employer must be notified not to provide the health care plan for that employee.

(3) For a person who is entitled to health benefits as good as those required under this Act, as a dependent (wife, husband, child) of someone with a prepaid health care plan, the employer must be notified not to provide the health care plan for that employee.

(4) For a person who is a recipient of public assistance or covered by a prepaid health plan under the state law on medical assistance, such as a working mother entitled to aid for dependent children, the employer must be notified not to provide the health care plan for that employee.

In all of these cases, the employer must notify the Director of Labor and Industrial Relations of the exemptions, or of any change in the exemptions. The employee also has the responsibility of notifying the employer of any change in the circumstances that qualify for an exemption.

PREMIUM SUPPLEMENTATION

26. Q: Doesn't this Act impose a burden on employers by adding additional expenses on the cost of doing business?

A: To the extent that employers contribute to the costs of the premium for their employees' prepaid health care plans, that is an additional cost of doing business. It is believed that businesses should bear a reasonable share of the cost of providing these health benefits for employees, instead of placing too large a burden on employees, especially the low wage earning employee, and on the taxpayers at large. However, there is special concern for small businesses that operate on a small margin of profit where too large additional expenses would be more than they can easily bear. For these small businesses, the Act provides for premium supplementation to help meet the premium costs for the required prepaid health care plans.

27. Q: What businesses qualify as small businesses for purposes of the premium supplementation?

A: An employer who employs 7 or fewer employees who are entitled to prepaid health care benefits under the Act.

28. Q: Are all employers with 7 or fewer employees eligible for premium supplementation?

A: No, there is a two-part test that must be met in order for a small business to be entitled to premium supplementation.

(1) First, the employer's share of the cost of the premium must exceed 1.5 per cent of his total payroll. Following are examples of this part of the test:

Employer A has 4 regular employees, each with wages of $6,000.

Employees contribute $90 each (1.5% of $6,000=$90, one-half of premium).

Employer contributes $90×4 ($90 for each employee)=$360.

Total payroll is $24,000, 1.5% of $24,000=$360.

In this example, the employer does not meet the first part of the test and is not eligible for premium supplementation; his share of premium costs does not exceed 1.5% of the total payroll.

Employer B has the following regular employees:

2 employees, each with wages of $9,000 and 3 employees, each with wages of $4,800.

$9,000 employees contribute $90 each (one half of premium).

$4,800 employees contribute $72 each (1.5% of wages).

Employer contributes $180 ($90 each for $9,000 employees).

Employer contributes $324 ($108 each for $4,800 employees).

Total, $504.

Total payroll is $32,400 ($9,000×2 and $4,800×3), 1.5% of $32,400=$486.

In this example, the employer meets the first part of the test; his share of premium costs exceeds 1.5% of the total payroll.

Employer C has the following *regular* employees:

1 employee with wages of $6,000.

1 employee with wages of $4,800.

5 employees, each with wages of $3,000.

$6,000 employee contributes $90.

$4,800 employee contributes $72.

$3, 000 employees contribute $45 each.

Employer contributes $90 (for $6,000 employee).

Employer contributes $108 (for $4,800 employee)

Employer contributes $675 ($135 each for $3,000 employees).

Total, $873.

Total payroll is $25,800 1.5% of $25,800=$387.

In this example, the employer meets the first part of the test; his share of premium costs exceeds 1.5% of the total payroll.

(2) The second part of the test to qualify a small business for premium supplementation relates to profits from the business. If the employer's share of premium costs exceeds 1.5% of total payroll (first part of test), the employer is entitled to premium supplementation only when the excess is more than 5% of his business income before taxes. This part of the test makes clear that in every case the employer, as well as the employee, must contribute at least 1.5% of the premium costs and that no one gets a "free ride".

In the examples used for the first part of

the test, in order for an employer to qualify for premium supplementation;

Employer A—He can be disregarded because he did not meet the first part of the test.

Employer B—Suppose this employer is in a retail or service trade, the 2 $9,000 employees are trained in business administration, and the trained in business administration, and the 3 $4,800 employees are clerks. Suppose also that this business nets, before taxes, $50,000 income. With these facts, the employer would not be entitled to supplementation for his share of the costs of the premiums for his employees' prepaid health care plan because the $18 amount he paid in premiums that was more than 1.5% of total payroll is not more than 5% of his business income before taxes.

Employer C—Suppose this employer also is in a retail or service trade, the $6,000 employee has some years of experience, the $4,800 employee has finished their in-service training, and the 5 $3,000 employees are new hires just learning their jobs. Suppose also that this business nets, before taxes, $8,000 income. With these facts, Employer C is entitled to $86 in premium supplementation. His $873 contribution toward premium costs is $486 more than 1.5% of total payroll ($387), and $486 is $86 more than 5% of business income before taxes ($8,000).

29. Q: How does the small businessman actually go about claiming and collecting premium supplementation if he is qualified for this assistance?

A: The employer must file a claim for the supplementation and prove that he is entitled to it. Probably, the easiest way to establish his right to the supplementation is to give the administrator a copy of his business tax return. The employer will also have to inform himself about the rules and regulations on the matter.

30. Q: Who pays for the premium supplementation that qualifying small businesses can claim?

A: Premium supplementation payments are to be paid out of a special fund consisting of money appropriated by the State for the purpose of the supplementation, plus fines and penalties collected under the Act.

ADMINISTRATION AND ENFORCEMENT

31. Q: Who is responsible for the administration and enforcement of the Act?

A: The Director of Labor and Industrial Relations who will be assisted by an Advisory Council in determinations on qualifications of prepaid health care plans.

32. Q: Will the administration and enforcement be expensive and complicated?

A: Day-to-day administrative and enforcement responsibilities for the Hawaii Health Prepayment Act will fall conveniently within the division of the Department of Labor and Industrial Relations that is already responsible for administration and enforcement of Hawaii's Temporary Disability Insurance Law.

33. Q: Who makes up the Prepaid Health Care Advisory Council?

A: The members of this body, not more than 7 people, will be appointed by the Director of Labor and Industrial Relations. The members must include representatives of the medical and public health professions, consumer interests, and others experienced in prepaid health care protection.

34. Q: What are the penalties for not complying with the Act?

A: Generally, the penalty for an employer who does not provide the required prepaid health care plan for his employees is a fine of not less than $25 (or $1 for each employee) for each day of noncompliance. In addition, for wilful violations of the Act by an employer, an employee, or a prepaid health care plan contractor, fines up to the amount of $200 may be imposed.

EFFECT OF FEDERAL LAW

35. Q: What happens if federal legislation is enacted to provide for a national health insurance law?

A: If the federal legislation provides for voluntary prepaid health care for the people of Hawaii so that the benefits are at least as favorable as the benefits under this Act, then this Act will go out of effect.

If the federal legislation provides for mandatory prepaid health care for the people of Hawaii, then this Act will go out of effect.

If the federal legislation is the kind that prohibits a State from having a law requiring prepaid health care, then this Act will go out of effect.

HAWAII SENATE BILL NO. 14

A bill for an act relating to the Hawaii Health Prepayment Act

Be it enacted by the Legislature of the State of Hawaii:

SECTION 1. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately numbered and to read as follows:

"CHAPTER

PREPAID HEALTH CARE ACT

Part I. Short title; purpose; definitions

SEC. 1. *Short title.* This chapter shall be known as the Hawaii Prepaid Health Care Act.

SEC. 2. *Findings and purpose.* The cost of medical care in case of sudden need may consume all or an excessive part of a person's resources. Prepaid health care plans offer a certain measure of protection against such emergencies. It is the purpose of this chapter in view of the spiraling cost of comprehensive medical care to provide this type of protection for the employees in this State. Although a large segment of the labor force in the State already enjoys coverage of this type either by virtue of collective bargaining agreements, employer-sponsored plans, or individual initiative, there is a need to extend that protection to workers who at present do not possess any or possess only inadequate prepayment coverage.

This chapter shall not be construed to interfere with or diminish any protection already provided pursuant to collective bargaining agreements or employer-sponsored plans that is more favorable to the employees benefited thereby than the protection provided by this chapter or at least equivalent thereto.

SEC. 3. *Definitions generally.* As used in this chapter, unless the context clearly requires otherwise:

(1) "Department" means the department of labor and industrial relations.

(2) "Director" means the director of labor and industrial relations.

(3) "Employer" means any individual or type of organization, including any partnership, association, trust, estate, joint stock company, insurance company, or corporation, whether domestic or foreign, a debtor in possession or receiver or trustee in bankruptcy, or the legal representative of a deceased person, who has one or more regular employees in his employment. "Employer" does not include:

(A) The State, any of its political subdivisions, or any instrumentality of the State or its political subdivisions;

(B) The United States government or any instrumentality of the United States;

(C) Any other state or political subdivision thereof or instrumentality of such state or political subdivision;

(D) Any foreign government or instrumentality wholly owned by a foreign government, if (i) the service performed in its employ is of a character similar to that performed in foreign countries by employees of the United States government or of an instrumentality thereof, and (ii) the United States Secretary of State has certified or certifies to the United States Secretary of the Treasury that the foreign government, with respect to whose instrumentality exemption is claimed, grants an equivalent exemption with respect to similar service performed in the foreign country by employees of the United States government and of instrumentalities thereof.

(4) "Employment" means service, including service in interstate commerce, performed for wages under any contract of hire, written or oral, expressed or implied, with an employer, except as otherwise provided in sections 4 and 5.

(5) "Premium" means the amount payable to a prepaid health care plan contractor as consideration for his obligations under a prepaid health care plan.

(6) "Prepaid health care plan" means any agreement by which any prepaid health care plan contractor undertakes in consideration of a stipulated premium:

(A) Either to furnish health care, including hospitalization, surgery, medical or nursing care, drugs or other restorative appliances, subject to, if at all, only a nominal per service charge; or

(B) To defray or reimburse, in whole or in part, the expenses of health care.

(7) "Prepaid health care plan contractor" means:

(A) Any medical group or organization which undertakes under a prepaid health care plan to provide health care; or

(B) Any nonprofit organization which undertakes under a prepaid health care plan to defray or reimburse in whole or in part the expenses of health care; or

(C) Any insurer who undertakes under a prepaid health care plan to defray or reimburse in whole or in part the expenses of health care.

(8) "Regular employee" means a person employed in the employment of any one employer for at least twenty hours per week but does not include a person employed in seasonal employment. "Seasonal employment" for the purposes of this paragraph means employment in a seasonal pursuit as defined in section 387–1 by a seasonal employer during a seasonal period or seasonal periods for the employer in the seasonal pursuit or employment by an employer engaged in the cultivating, harvesting, processing, canning, and warehousing of pineapple during its seasonal periods. The director by rule and regulation may determine the kind of employment that constitutes seasonal employment.

(9) "Wages" means all cash remuneration for services from whatever source, including commissions, bonuses, and tips and gratuities paid directly to any individual by a customer of his employer.

If the employee does not account to his employer for the tips and gratuities received and is engaged in an occupation in which he customarily and regularly receives more than $20 a month in tips, the combined amount received by him from his employer and from tips shall be deemed to be at least equal to the wage required by chapter 387 or a greater sum as determined by regulation of the director.

"Wages" does not include the amount of any payment specified in section 383–11 or 392–22 or chapter 386.

SEC. 4. *Place of performance.* "Employment" includes an individual's entire service, performed within or both within and without this State if:

(1) The service is localized in this State; or

(2) The service is not localized in any state but some of the service is performed in this State and

(A) the individual's base of operation, or, if there is no base of operation, the place

from which such service is directed or controlled, is in the State; or

(B) the individual's base of operation or place from which the service is directed or controlled is not in any state in which some part of the service is performed but the individual's residence is in this State.

SEC. 5. *Excluded services.* "Employment" as defined in section 3 does not include the following services:

(1) Service performed by an individual in the employ of an employer who, by the laws of the United States, is responsible for cure and cost in connection with such service.

(2) Service performed by an individual in the employ of his spouse, son, or daughter, and service performed by an individual under the age of twenty-one in the employ of his father or mother.

(3) Service performed in the employ of a voluntary employee's beneficiary association providing for the payment of life, sick, accident, or other benefits to the members of the association or their dependents or their designated beneficiaries, if

(A) admission to membership in the association is limited to individuals who are officers or employees of the United States government, and

(B) no part of the net earnings of the association inures (other than through such payments) to the benefits of any private shareholder or individual.

(4) Service performed by an individual for an employer as an insurance agent or as an insurance solicitor, if all such service performed by the individual for the employer is performed for remuneration solely by way of commission.

(5) Service performed by an individual for an employer as a real estate salesman or as a real estate broker, if all such service performed by the individual for the employer is performed for remuneration solely by way of commission.

(6) Service performed by an individual who, pursuant to the Federal Economic Opportunity Act of 1964, is not subject to the provisions of law relating to federal employment, including unemployment compensation.

SEC. 6. *Principal and secondary employer defined; coercion, interference, etc. prohibited.* If an individual is concurrently a regular employee of two or more employers as defined in this chapter, the employee shall determine which of the employers shall be his principal employer. His other employers are secondary employers. The determination by the employee of his principal employer is binding for one year or until change of employment, whichever is earlier.

If an individual is concurrently a regular employee of a public entity which is not an employer as defined in section 3 the latter shall be deemed to be a secondary employer.

An employer who, directly or indirectly, interferes with or coerces or attempts to coerce an employee in making a determination under this section shall be subject to the penalty provided under subsection 33(b).

SEC. 7. *Required health care benefits.* (a) A prepaid health care plan shall qualify as a plan providing the mandatory health care benefits required under this chapter if it provides for health care benefits equal to, or medically reasonably substitutable for, the benefits provided by prepaid health plans of the same type, as specified in section 12(a)(1) or (2), which have the largest numbers of subscribers in the State. This applies to the types and quantity of benefits as well as to limitations on reimbursability, including deductibles, and to required amounts of co-insurance.

The director, after advice by the prepaid health care advisory council, shall determine whether benefits provided in a plan, other than the plan of the respective type having the largest numbers of subscribers in the State, comply with the standards specified in this subsection.

(b) A prepaid group health care plan shall also qualify for the mandatory health care benefits required under this chapter if it is demonstrated by the health care plan contractor offering such coverage to the satisfaction of the director after advice by the prepaid health care advisory council that the plan provides for sound basic hospital, surgical, medical, and other health care benefits at a premium commensurate with the benefits included taking proper account of the limitations, co-insurance features, and deductibles specified in such plan. Coverage under a plan which provides aggregate benefits that are more limited than those provided by plans qualifying under subsection (a) shall be in compliance with section 11 only if the employer contributes at least half of the cost of the coverage of dependents under such plan.

(c) Subject to the provisions of subsections (a) and (b) without limiting the development of medically more desirable combinations and the inclusion of new types of benefits, a prepaid health care plan qualifying under this chapter shall include at least the following benefit types:

(1) Hospital benefits:

(A) In-patient care for a period of at least one hundred twenty days of confinement in each calendar year covering:

(i) Room accommodations;

(ii) Regular and special diets;

(iii) General nursing services;

(iv) Use of operating room, surgical supplies, anesthesia services, and supplies;

(v) Drugs, dressings, oxygen, antibiotics, and blood transfusion services.

(B) Out-patient care:

(i) Covering use of out-patient hospital;

(ii) Facilities for surgical procedures or medical care of an emergency and urgent nature.

(2) Surgical benefits:

(A) Surgical services performed by a licensed physician, as determined by plans meeting the standards of subsections (a) and (b);

(B) After-care visits for a reasonable period;

(C) Anesthesiologist services.

(3) Medical benefits:

(A) Necessary home, office, and hospital visits by a licensed physican;

(B) Intensive medical care while hospitalized;

(C) Medical or surgical consultations while confined.

(4) Diagnostic laboratory services, X-ray films, and radio-therapeutic services, necessary for diagnosis or treatment of injuries or diseases.

(5) Maternity benefits, at least if the employee has been covered by the prepaid health care plan for nine consecutive months prior to the delivery.

(d) The prepaid health care advisory council shall be appointed by the director and shall include representatives of the medical and public health professions, representatives of consumer interests, and persons experienced in prepaid health care protection. The membership of the council shall not exceed seven individuals.

Part II. Mandatory coverage

SEC. 11. *Coverage of regular employees by group prepaid health care plan.* Every employer who pays to a regular employee monthly wages in an amount of at least 86.67 times the minimum hourly wage, specified in chapter 387, as rounded off by regulation of the director, shall provide coverage of such employee by a prepaid group health care plan qualifying under section 7 with a prepaid health care plan contractor in accordance with the provisions of this chapter.

SEC. 12. *Choice of plan type and of contractor.* (a) Every employer required to provide coverage for his employees by a prepaid group health care plan under this chapter shall elect whether coverage shall be provided by:

(1) A plan which obligates the prepaid health care plan contractor to furnish the required health care benefits; or

(2) A plan which obligates the prepaid health care plan contractor to defray or reimburse the expenses of health care.

His election is binding for one year.

(b) Whether the employer elects a plan type described in subsection (a)(1) or in subsection (a)(2), the employer may elect the particular contractor but the employee shall not be obligated to contribute a greater amount to the premium than he would have to contribute had the employer elected coverage with the contractor providing the prevailing coverage of the respective type in the State.

Subject to the provision of section 20, the employer shall provide coverage with the prepaid health care plan contractor selected pursuant to this subsection for all his employees in the State electing this type of coverage who are covered by the provisions of this chapter, except for employees covered by the health care provisions of an applicable collective bargaining agreement as provided in section 19(b) first sentence.

SEC. 13. *Liability for payments of premium; withholding.* Unless an applicable collective bargaining agreement specifies differently every employer shall contribute at least one-half of the premium for the coverage required by this chapter and the employee shall contribute the balance; provided that in no case shall the employee contribute more than 1.5 per cent of his wages; and provided that if the amount of the employee's contribution is less than one-half of the premium, the employer shall be liable for the whole remaining portion of the premium.

The employer shall withhold the employee's share from his wages with respect to pay periods as specified by the director.

SEC. 14. *Commencement of coverage.* The employer shall provide the coverage required by this chapter for any regular employee, who has been in his employ for four consecutive weeks, at the earliest time thereafter at which coverage may be provided with the prepaid health care plan contractor selected pursuant to this chapter.

SEC. 15. *Continuation of coverage in case of inability to earn wages.* If an employee is hospitalized or otherwise prevented by sickness from working, the employer shall enable the employee to continue his coverage by contributing to the premium the amounts paid by the employer toward such premium prior to the employee's sickness for the period that such employee is hospitalized or prevented by sickness from working. This obligation shall not exceed a period of three months following the month during which the employee became hospitalized or disabled from working, or the period for which the employer has undertaken the payment of his regular wages in such case, whichever is longer.

SEC. 16. *Liability of secondary employer.* An employer who has been notified by an employee, in the form prescribed by the director, that he is not the principal employer as defined in section 6 shall be relieved of the duty of providing the coverage required by this chapter until he is notified by the employee pursuant to section 18 that he has become the principal employer. He shall notify the director, in the form prescribed the director, that he is relieved from the duty of providing coverage or of any change in that status.

SEC. 17. *Exemption of certain employees.* (a) In addition to the exemption specified in section 16, an employer shall be relieved of his duty under section 11 with respect to any

employee who has notified him, in the form specified by the director, that the employee is:

(1) Protected by health insurance or any prepaid health care plan established under any law of the United States;

(2) Covered as a dependent under a prepaid health care plan, entitling him to the health benefits required by this chapter;

(3) A recipient of public assistance or covered by a prepaid health care plan established under the laws of the State governing medical assistance.

(b) Employers receiving notice of a claim of exemption under this section shall notify the director of such claim in the form prescribed by the director.

SEC. 18. *Termination of exemption.* (a) If an exemption which has been claimed by an employee pursuant to section 17 terminates because of any change in the circumstances entitling the employee to claim such exemption, the employee shall promptly notify the principal employer of the termination of the exemption and the employer thereupon shall provide coverage as required by this chapter.

(b) If because of a change in the employment situation of an employee or a redetermination by an employee as provided in section 6, a principal employer becomes a secondary employer or a secondary employer becomes the principal employer, the employee shall promptly notify the employers affected of such change and the new principal employer shall provide coverage as required by this chapter.

SEC. 19. *Freedom of collective bargaining.* (a) In addition to the policy stated in section 2, nothing in this chapter shall be construed to limit the freedom of employees to bargain collectively for different prepaid health care plan coverage or for a different allocation of the costs thereof. A collective bargaining agreement may provide that the employer himself undertakes to provide the health care specified in the agreement.

(b) If the employees rendering particular types of services are not covered by the health care provisions of the applicable collective bargaining agreements to which their employer is a party, the provisions of this chapter shall be applicable with respect to them. An employer or group of employers shall be deemed to have complied with the provisions of this chapter if they undertake to provide health care services pursuant to a collective bargaining agreement and the services are available to all other employees not covered by such agreement.

SEC. 20. *Adjustment of employer-sponsored plans.* Where employees subject to the coverage of this chapter are included in the coverage provisions of an employer-sponsored prepaid health care plan covering similar employees employed outside the State and the majority of such employees are not subject to this chapter, the benefits applicable to the employees covered by this chapter shall be adjusted within one year after the effective date of this chapter so as to meet the requirements of this chapter.

SEC. 21. *Individual waivers prohibited; additional withholding for dependents.* An employee may not waive individually all or part of the required health care benefits or agree to pay a greater share of the premium for such benefits than is required by this chapter.

Subject to section 7(b), an employee may consent to pay a greater share of his wages and to a withholding of such share by the employer for the purpose of providing prepaid health care benefits of his dependents under the plan providing such benefits for himself.

SEC. 22. *Exemption of followers of certain teachings or beliefs.* This chapter shall not apply to any individual who pursuant to the teachings, faith, or belief of any group, depends for healing upon prayer or other spiritual means.

SEC. 23. *Joint provision of coverage.* Employers may form associations for the purpose of jointly providing prepaid health care protection under this chapter for their employees with the contractors authorized to provide such coverage in the State.

Part III. Administration and enforcement

SEC. 31. *Enforcement by the director.* Except as otherwise provided in section 7 the director shall administer and enforce this chapter. The director may appoint such assistants and such clerical, stenographic, and other help as may be necessary for the proper administration and enforcement of this chapter subject to any civil service act relating to state employees.

SEC. 32. *Rule making and other powers of the director.* The director may adopt, amend, or repeal, pursuant to chapter 91, such rules and regulations as he deems necessary or suitable for the proper administration and enforcement of this chapter.

The director may round off the amounts specified in this chapter for the purpose of eliminating payments from the premium supplementation fund in other than even dollar amounts or other purposes.

The director may prescribe the filing of reports by prepaid health care plan contractors and prescribe the form and content of request by employers for premium supplementation and the period for the payment thereof.

SEC. 33. *Penalties.* (a) If an employer fails to comply with section 11, 12, 13, or 15 he shall pay a penalty of not less than $25 or of $1 for each employee for every day during which such failure continues, whichever sum is greater. The penalty shall be assessed under rules and regulations promulgated pursuant to chapter 91 and shall be collected by the director and paid into the special fund for premium supplementation established by section 41. The director may, for good cause shown, remit all or any part of the penalty.

(b) Any employer, employee, or prepaid health care plan contractor who wilfully fails to comply with any other provision of this chapter or any rule or regulation thereunder may be fined not more than $200 for each such violation.

Part IV. Premium supplementation

SEC. 41. *Establishment of special premium supplementation fund.* There is established in the treasury of the State, separate and apart from all public moneys or funds of the State, a special fund for premium supplementation which shall be administered exclusively for the purposes of this chapter. All premium supplementations payable under this part shall be paid from the fund. The fund shall consist of (1) all money appropriated by the State for the purposes of premium supplementation under this part and (2) all fines and penalties collected pursuant to this chapter.

SEC. 42. *Management of the fund.* The director of finance shall be the treasurer and custodian of the premium supplementation fund and shall administer the fund in accordance with the directions of the director of labor and industrial relations. All moneys in the fund shall be held in trust for the purposes of this part only and shall not be expended, released, or appropriated or otherwise disposed of for any other purpose. Moneys in the fund may be deposited in any depositary bank in which general funds of the State may be deposited but such moneys shall not be commingled with other state funds and shall be maintained in separate accounts on the books of the depositary bank. Such moneys shall be secured by the depositary bank to the same extent and in the same manner as required by the general depositary law of the State; and collateral pledged for this purpose shall be kept separate and distinct from any other collateral pledged to secure other funds of the State. The director of finance shall be liable for the performance of his duties under this section as provided in chapter 37.

SEC. 43. *Disbursements from the fund.* Expenditures of moneys in the premium supplementation fund shall not be subject to any provisions of law requiring specific appropriations or other formal release by the state officers of money in their custody. All payments from the fund shall be made upon warrants drawn upon the director of finance by the comptroller of the State supported by vouchers approved by the director.

SEC. 44. *Investment of moneys.* With the approval of the department the director of finance may, from time to time, invest such moneys in the premium supplementation fund as are in excess of the amount deemed necessary for the payment of benefits for a reasonable future period. Such moneys may be invested in bonds of any political or municipal corporation or subdivision of the State, or any of the outstanding bonds of the State, or invested in bonds or interest-bearing notes or obligations of the State (including state director of finance's warrant notes issued pursuant to chapter 40), or of the United States, or those for which the faith and credit of the United States, are pledged for the payment of principal and interest, or in federal land bank bonds or joint stock farm loan bonds. The investments shall at all times be so made that all the assets of the fund shall always be readily convertible into cash when needed for the payment of benefits. The director of finance shall dispose of securities or other properties belonging to the fund only under the direction of the director of labor and industrial relations.

SEC. 45. *Entitlement to premium supplementation.* (a) An employer who employs less than eight employees entitled to coverage under this chapter and who provides coverage to such employees pursuant to section 7(a) shall be entitled to premium supplementation from the fund if the employer's share of the cost of providing such coverage as determined by sections 13 and 15 exceeds 1.5 per cent of the total wages payable to such employees and if the amount of such excess is greater than five per cent of the employer's income before taxes directly attributable to the business in which such employees are employed.

(b) The amount of the supplementation shall be that part of the employer's share of the premium cost which exceeds the limits specified in subsection (a).

SEC. 46. *Income directly attributable to the business.* (a) "Income directly attributable to the business" means gross profits from the business minus deductions for:

(1) Compensation of officers;

(2) Salaries and wages, except wages paid by an individual proprietor to himself;

(3) Repairs;

(4) Taxes on business and business property;

(5) Business advertising;

(6) Amounts contributed to employee benefit plans;

(7) Interest on business indebtedness;

(8) Rent on business property; and

(9) Other expenses necessary for the current conduct of business.

(b) Deductions shall not include:

(1) Bad debts;

(2) Contributions or gifts, other than those listed under subsection (a)(6);

(3) Amortization and depreciation; or

(4) Losses by fire, storm, casualty, or theft.

(c) The director may promulgate rules and regulations necessary to define income directly attributable to business for the purpose of section 45.

SEC. 47. *Claim of premium supplementation.* An employer entitled to premium supplementation shall file a claim therefor in the manner provided by regulation of the director. The employer shall have the burden of proof of establishing his entitlement."

SECTION 2. This Act shall take effect upon its approval, except that the coverage by group prepaid health care plans required by this Act and the payment of premiums for such coverage shall commence January 1, 1975; provided that this Act shall terminate upon the effective date of federal legislation that provides for voluntary prepaid health care for the people of Hawaii in a manner at least as favorable as the health care provided by this Act, or upon the effective date of federal legislation that provides for mandatory prepaid health care for the people of Hawaii.

THE REAL OIL SCANDAL

Mr. FANNIN. Mr. President, Mr. John R. Gisburne of Midland, Tex., was kind enough to send me a recent article from the Harvard Crimson entitled "The Real Oil Scandal." The Interior Committee will hold a hearing tomorrow and then mark up a bill to extend the Mandatory Petroleum Allocation Act. Such action by our committee is certainly premature since it was only 8 months since the Allocation Act became law and will not expire for another 7 months. This article supports the free market economy as the proper mechanism for allocating supplies and points up the weaknesses of government control. I ask unanimous consent to have the article printed in the RECORD.

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

THE REAL OIL SCANDAL

An old adage goes, there are three types of liars—liars, damned liars, and statistics. The energy crisis has had more than its share of all three.

In the past two weeks, the profits for the first quarter of 1974 for the largest U.S. oil companies have been widely reported as showing great gains for the oil companies. Texaco's profits were up 123 per cent. Standard Oil of Indiana's profits were up 81 per cent, and Exxon's profit were up 81 per cent. But what do these statistics mean?

In a completely socialized economy, if a shortage developed in some commodity, the central planners would want to allocate extra resources to the commodity's production. But how much should they allocate and from what other industries should they allocate it? The planners would have no way of knowing.

But in a free market economy, the proper reallocations are made automatically. When a commodity is in short supply, its price rises, increasing profits for the producers. This gives them both the money and incentive to increase production.

In actual practice this has been the case for the oil companies. When the oil shortage made Exxon's profits rise 60 per cent in 1973 to $2.4 billion, the company increased 1974 investment in the search for oil 73 per cent, to $6.1 billion. Gulf's profits were up 79 per cent in 1973, to $800 million, but Gulf has increased its 1974 capital investment to $2 billion. Atlantic Richfield, making $270 million last year, plans to double its capital investment in 1974 to $1.1 billion. The same is true for all oil companies, large and small. The oil companies are reinvesting all of their higher profits, and even more.

But there is another reallocating mechanism in the market. Producers of other commodities, seeing the rising prices of the shortage commodity, try to switch into production of it as much as possible.

Again, in the oil industry, this has been the case. The New York Times reports that even very small operators are entering the industry. "The price of new oil is bringing about development like I've never seen before," said H. L. Sonny Brown in a Times article on March 10. Brown is an independent oilman who has just begun putting up his own rigs in Texas. "In 19 years I've never seen this area like it has been the past few months. Everybody wants to do things."

"The oil business looks more attractive to me than it has in the past 15 years," said Don E. Weber of Midlands, Texas, also in a Times interview. "The rewards are now commensurate with the risks." Weber has just gone into the oil business in partnership with a geologist.

"Where we are now I thought we wouldn't be for two or three years," said Jeff E. Montgomery, chairman of Kirby Industries. "We are packing all the capital we can into exploration and production." Kirby Industries once owned a few oil wells in the '60s but then moved into the prefabrication of steel buildings.

"In those days," Montgomery said, "we weren't making money finding oil. You could not make a reasonable rate of return. We set out to get in some other business." But now Kirby Industries is back in oil.

The extra production from increased investment by old and new producers would eliminate the shortage. The oil companies plan to add 2.1 million barrels a day to production in the next four years. This extra production will also drive down prices until profits are back to normal. Thus, higher oil profits mean merely that the market is doing what government allocators would want to do themselves, if only they knew how. The free market reallocating mechanism is far superior to any reallocating mechanism in planned economics.

In this process the temporarily high profits a company makes during the shortage are its payment for switching resources to their most important uses and for providing a commodity when it is most needed—during the shortage.

These reallocations are the proper ones because they are determined by consumer choices. The more important a commodity is to consumers, the higher they will bid up its price and the profits of its producers during a shortage. But the higher prices and profits are, the more old and new producers will shift resources into production of that commodity.

But why would anyone be allowed to make profits at the expense of others? Someone who produces a product creates a value. He has combined various inputs and created a more valuable output. The extra value is his because he created it and his profit is payment for this value. His profit does not mean he is appropriating a bigger share of available wealth, it means he is increasing total wealth and his profit is the amount he increased it by. He doesn't make this profit at the expense of others, he creates the value of the profit by producing the product.

So even if oil profits were high, that would not reveal a scandal. It would simply reveal the rational, just, efficient, workings of the market.

But the truth is that oil profits have not been high. If a company's returns rose 100 per cent, that would not say whether the company was making exorbitant profits or not. If a company made 1 or 2 per cent profit and its profit rose 100 or 200 per cent, the company would still be doing poorly. But this is precisely how oil profits have been reported, as the increase in profits.

The actual figures show that oil companies have not made high profits. Although profits rose 55 per cent in 1973, the return on invested capital for the oil industry was 11.2 per cent, the same as 10 years ago. The FTC reports that oil profits in 1973 were 15.6 per cent compared to 14.8 per cent for all other manufacturing. More than a third of the nation's industries had higher returns. Actually, oil profits had been lower than the average for other manufacturing industries in eight out of the last ten years.

And these profit figures are heavily influenced by returns on older, already discovered oil wells. Returns on new investments have been lower. In 1972, the Department of Interior estimated that the discounted cash flow rate of return on oil exploration and development expenditures was 3.2 to 6.6 per cent. This means that secure investments like bonds or long term savings certificates have been more profitable than petroleum exploration and development investments.

Furthermore, in the past year, 85 per cent of the increase in oil profits has come from oil produced and sold outside the U.S. Twenty-five per cent of the total gain was due to the devaluation of the dollar. Because of these overseas profits, in the past five years oil companies have invested two dollars looking for oil in the U.S. for every dollar of domestic profit.

Also, much of these profits has gone to the federal government for drilling rights. In 1972, the oil industry made $6.5 million in profits. Yet in the following year, the industry paid $6.9 billion to the government for offshore drilling rights.

So the recent rise in oil profits was really a return to normal levels. But even if oil profits continue to rise, the market will correct itself. Even the profit rise to normal levels has caused great increases in investment, as we have already seen. Any further increase will cause even more, so the resulting extra production will eventually bring profits back to normal levels. In the meantime, the shortage will have been ended and nobody makes any money they haven't earned.

Anyone who thinks there isn't enough oil to be found to increase production ought to research the estimates of oil available from Alaska, off-shore fields, tar sands, shale, coal, and old oil wells. The oil can be found if there is an incentive to find it.

It therefore seems that the notion that oil companies are making outrageous profits is the result of twisted statistics. Even if profits were high that would not reveal anything scandalous or immoral. It seems that the only scandal oil profits reveal is the way they have been grossly misrepresented. The only real scandal is the great number of public figures who are willing to bend the truth to support their ideological contentions.

NEED FOR NATIONAL DIALOG ON U.S. FOREIGN POLICY

Mr. McGEE. Mr. President, in the July 27 issue of Saturday Review/World, there appeared an excellent guest editorial written by George C. McGhee.

The editorial focuses on the need for a national dialog on U.S. foreign policy. I certainly endorse this proposal. All too often, Members of the Congress justify their opposition to U.S. foreign policy initiatives on the basis of what their constituency "back home" supposedly perceives. However, I also believe this attitude belies an underestimation of the American people.

We have done a poor job of carrying out an intelligent dialog with our constituents on such matters as foreign aid and a strong U.S. involvement in international affairs. I believe strong support can be generated for our foreign policy initiatives, if such an intelligent and rational dialog is opened.

George McGhee is particularly qualified to offer his thoughts on this subject He has had a very illustrious and productive career in international relations,

first serving as Coordinator for aid to Greece and Turkey in the Department of State from 1947 until 1949, and then serving as Special Assistant to the Secretary of State before assuming the post of Assistant Secretary of State for Eastern, South Asian, and African Affairs for 2 years. During the 1950's and early 1960's, he served in a variety of key foreign policy posts. In 1963, he became Ambassador to the Federal Republic of Germany, a position he held until 1968. His last assignment for the administration of President Lyndon Johnson was his service as Ambassador at Large.

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

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

BEDROCK DIPLOMACY

(By George C. McGehee)

The sad truth about our recent foreign-policy spectaculars is that they rest on wobbly foundations—wobbly because they have not yet won the sort of enthusiastic public support that is the bedrock of successful diplomacy. The resulting public apathy distinctly threatens the world's newfound hopes for peace, for our statesmen can obviously go no further in major negotiations than the American people are willing to let them go.

The next urgent step for the government and our opinion leaders must, then, be a program of what might be called "internal diplomacy," aimed at enlisting understanding and support for our recent commitments abroad. For it is the American public who ultimately determine, and in a visceral, final way, the direction and effectiveness of our foreign policy.

All this is only right, of course, because it is the average man, and his family, who must pay the price if that policy goes wrong. It is he or his son who will slog it out in the mud with the infantry—and take the casualties—if war comes. His share of the war taxes hits hardest. This may well be why the American people, preoccupied with their immediate problems, remain suspicious and slightly aloof from their leaders on foreign policy. Average people are not easily carried away by idealistic, generalized slogans. Yet when they became convinced that our course is a right one, they release a torrent of power.

There are many historical examples of this force. The early American settlers were determined to remain free from the influence of the European powers and their rivalries. Among the pioneers an overwhelming desire developed to conquer the West—without regard to possible international consequences. Later, after much vacillation, Americans twice decided to go to war to save Europe from domination by German autocracy. To preserve their victory after the Second World War, they accepted the "Cold War" of enmity with the Soviet Union. In the beginning average Americans supported the war in Vietnam as an extension of the Cold War. When they discovered, however, that it was an intrusion into a civil war, they forced their government to end it.

With Dr. Kissinger as its chosen instrument, the Nixon administration has achieved a number of apparently brilliant foreign-policy successes: the establishment of contacts with China, the withdrawal of U.S. forces from Vietnam, the furthering of détente with the Soviet Union, friendship with Egypt, and the pulling back of Israeli and Arab forces following the 1973 war. Will these moves fulfill the expectations they have aroused? More importantly, will the American people support them and pay their price? Unfortunately, we really do not know, for one of our critical problems today is the lack of contact between our foreign-policy makers and public opinion—that is, the people. We have in recent times had no great national debate over foreign policy. Foreign issues played only a secondary role in the last election. The people have not been taken into the confidence of their government.

Yet in times past we have had secretaries of state and other high policymakers who had deep roots in American political life. Cordell Hull, although deprecated by many as secretary of state and shunted aside by President Franklin D. Roosevelt, nevertheless knew what the American people wanted. The Reciprocal Trade Agreements Act, which he fathered, required—and got—the broad acceptance necessary for its success. Part of the difficulty is that those on the "firing line" of foreign policy are, for the most part, stationed out of the country. It is not their fault that they have little opportunity to find out what the mass of Americans really believe about the foreign policy they administer.

Neither the Secretary nor any of his top aides have stood for elective office. Their lives have been spent in universities, business, or government. The President, who is in the final analysis responsible for foreign policy, has himself lost contact. Embattled over Watergate, afraid of alienating his few remaining supporters, the President is in no position to interpret our foreign policies to the American people.

On paper our political parties, which are the normal link between the people and their government, man the Foreign Affairs and Foreign Relations committees of the Congress. Congressmen are not, however, always expert in foreign affairs, and Congress itself does not possess the mandate to carry out foreign policy. Though it must approve the necessary budgets and treaties, in practical fact most of the business between ourselves and other nations is today conducted through executive agreements and understandings that do not require approval by Congress. Often they are put through without the Congress's even knowing about them!

As things stand we have, I fear, on the one side a brilliant Secretary of State who gives virtuoso performances as a negotiator—and on the other side an American people who are left dazzled but confused by his performances. In many respects Americans appear satisfied with our foreign policy insofar as they understand it. But underlying this apparent acquiescence is the unsettling fact that they have had no real say about this policy and know little about what it seeks to achieve—and what price they must pay.

To what extent do Dr. Kissinger's moves relate to the goals of the American people? To what extent do his accomplishments provide a basis for peace and stability in the world of the future?

Consider the re-establishment of contacts with China. Even though this move was in most Americans' view long overdue, the country was caught by surprise. It was unfortunate that the President chose this course, rather than first building public support. In general, however, the step was applauded. I believe we had long felt a bit guilty about unrealistically ignoring the government of the most populous country in the world. Miraculously, also, there appeared to be no price to pay. Indeed, modest benefits from trade might ensue. However, little else of substance has evolved and the whole affair has come increasingly to appear unreal—even cosmetic. The liaison officers from both sides have slipped home almost unnoticed. The anti-foreign Cultural Revolution is stirring again in China. Many Americans are feeling uneasy.

Efforts to further détente with the Soviets, which has long been a hope of the American people, were also overdue. We had, indeed, enviously watched the overtures made to Russia by de Gaulle and Brandt and others, and applauded their successes. But whether or not Nixon and Kissinger got a bargain in their dealings with Russia has yet to be determined. It appears that the American people, reverting to their deeply held distrust of the Soviet Union, are questioning the price to us of large concessional credits, most-favored-nation treatment, dependence on Soviet gas, the new nuclear balance negotiated under SALT, and mutual-force withdrawals. Critics of Soviet Jewish emigration policy have also "weighed in" tellingly. The future of this particular détente effort, therefore, remains in doubt. A big "selling job" remains for the government.

Meanwhile, the American people also fervently hope for a Middle East peace that will provide stability in that troubled area—so that Israel will be secure and we can get the oil we need from the Arabs. The disengagement agreements reached will not in themselves, however, lead to a permanent solution.

Peace talks that were to have started in Geneva last December 8 have not even gotten underway. It also remains to be seen what our final obligations will be. If peace can be achieved in the Middle East, the price we have paid up to now will be money well spent. The American people will, I am sure, be happy to pay the bill. At this juncture we can only wish Dr. Kissinger well. However, if additional commitments are required, he must take the American people into his confidence. It is they who will ultimately decide.

But the role of the American people in foreign affairs is not necessarily just negative—limited to a check on policy. Indeed, one of the most unfortunate consequences of their lack of involvement in foreign policy is their removal as a positive force in the contemporary world scene. It was, after all, they who heeded George Marshall's 1947 Harvard speech calling for aid to a devastated Europe and gave their full support to what became the Marshall Plan. It was they who, when famine threatened in 1950, urged on their government a massive grain loan to India. Popular enthusiasm supported Point Four and development aid. Who knows the extent to which Americans today would be willing to share their food with the hungry and help the impoverished nations pay for their oil? No one has asked them. No one has pointed the way.

Basic to any successful foreign policy today—as in the past—is its comprehension and acceptance by the American people. We badly need a government responsive to the people, including a State Department able to take their views into account. No one today really knows what Americans want. If we are to progress, we must get our own people involved. The debate on foreign affairs must break through the distractions of Watergate and impeachment. Recent events—changes in governments; nuclear testing by France, China, and India; increased Soviet-Chinese tensions—must be evaluated by the American people. Without knowledge of how our people stand, our diplomacy—even as carried out by the most gifted practitioners of the art—will be written on sand.

FEDERAL JUVENILE DELINQUENCY ACT

Mr. BUCKLEY. Mr. President, I am pleased to see that the Congress is giving juvenile delinquency the attention which this serious and widespread problem deserves. S. 821 represents a definite improvement over the House bill. In particular I am happy to see that the committee decided to place the administration of this program within LEAA and not HEW. LEAA has for some time been involved in such activity and I feel that it is much better equipped and

qualified to do an effective job in this area. The changes which the committee has made in title II, relating to the Federal Juvenile Delinquency Act, also represent important improvements in the procedures for dealing with Federal juvenile offenders.

The establishment of well-focused research and training activities and information clearing-house programs, both for juvenile delinquency prevention and rehabilitation and for the broader areas of crime prevention and criminal rehabilitation, is a useful and valuable step. I would hope, however, that these new institutes which are to be established will avoid the dangers of bureaucratization that so often loads good programs with excessive administrative costs.

While I have supported the bill on balance there are some aspects of it that I find disturbing. I am willing to support an essentially revenue sharing approach to giving financial and technical assistance to the States to help them combat and prevent juvenile delinquency. I am concerned, however, that this cooperative relationship may turn into one dominated by LEAA.

The strings and requirements attached to the State grant program are many, and there will be pressures to multiply those when the program goes into operation. This is a danger that must be guarded against if the hopes of those who have supported this bill are not to be frustrated.

Section 482 of that bill, for example, contains a detailed list of what must be included in a State action plan whose approval is a forecondition for a grant.

This list amounts to a fairly extensive regulation of the administration and policies of State and local governments. Given the nature of bureaucracies, and that is what LEAA is, we can expect that the degree and extent of Federal regulation of these so-called local programs will tend to grow. There is a genuine possibility that the approach to juvenile delinquency decided upon by LEAA may come to be required of all State and local agencies dealing with the problem. On many grounds I do not think that would be a desirable result.

Mr. President, over the years politicians and others to my political left have warned that the FBI might turn into a national police force and take over control of local police forces from the local communities. This has not in fact happened, and I view it as extremely improbable. However, the structure and the slowly growing authority of LEAA, as evidenced by this bill, do in fact contain the seeds of potential Federal control or domination over the activities of local law enforcement agencies. If we are ever to see the nationalization of local police forces, it will most likely happen under LEAA, not the FBI. To illustrate this point, let me note that in 1971 an Associate Administrator of LEAA commented in a speech that:

> Today, in this country, we have 40,235 law enforcement agencies, ranging from one-man departments to New York City, with more than 40,000 police officers. This many units form a completely ungovernable body.

Ungovernable by whom, we might ask?

I raise this issue, not to make any dire predictions, but simply to bring it to the attention of my colleagues. I believe that it is highly important that we be aware of such potential abuses, and be prepared to take steps to prevent them, if necessary.

There are other potential abuses which could occur under this legislation. In efforts to prevent juvenile delinquency LEAA has already established some programs. One of these involves selecting certain children, labeling them as "predelinquents," and subjecting them to rehabilitation efforts.

There are similar programs which involve identifying and treating potential youthful drug offenders. While these programs may be useful, and there is some evidence which throws this into dispute, they also raise potentially serious issues of personal rights. Such labeling of children can possibly have harmful consequences. First, teachers and others may tend to prejudge the predelinquent or potential drug offender. Second, as personal files with these labels in them are passed from agency to agency, those who have had no contact with the child may similarly and unconsciously tend to assume a prejudicial attitude toward the child, to his possible detriment. Third, such labels can act as a self-fulfilling prophecy.

A case last fall in a Pennsylvania U.S. district court is a good example of these problems. In it a student's parents sought relief from a potential drug abuser program in the student's school. The U.S. Law Week summarized the plaintiff's case thusly:

> Two child psychiatrists testified without contradiction as to several * * * dangerous aspects of the CPI Program, none of which are mentioned * * * in any of the materials to be made available to parents. These dangers include the risk that the CPI Program will operate as a self-fulfilling prophecy in which a child labeled as a potential drug abuser will by virtue of a label decide to be that which people already think he or she is anyway * * * Another danger mentioned is that of scapegoating in which a child might be marked out by his peers for unpleasant treatment either because of refusal to take the CPI test or because of the result of the test. Additionally, there is a "severe loyalty conflict that might result by asking children the types of personal questions about their relationship with parents and siblings which are included in the CPI questionnaire." Finally the qualifications of the school district personnel who will administer the interventions once potential drug abusers have been identified are woefully inadequate.

In finding for the plaintiff, the judge concluded that:

> The ultimate use of this information, although possibly gained with a great deal of scientific success, is the most serious problem that faces the Court. How many children would be labeled as potential drug abusers who in actuality are not, and would be subjected to the problem of group therapy sessions conducted by inexperienced individuals?
>
> Strict confidentiality is not maintained after evaluation and there are many opportunities for a child to suffer insurmountable harm from a labeling when the cruelty of other children is at an extreme. . . . If one child is so harmed and would be temporarily or permanently damaged by the label of "drug abuser," is this Program worth the effort to identify other actual "drug abusers."
>
> When a program talks about labeling someone as a particular type and such a label could remain with him for the remainder of his life, the margin of error must be almost nil.

The rehabilitation program, or preventive therapy, which such children often have to undergo can sometimes be as bad or harmful as that which it is intended to prevent. There is, on the one hand, the problem which the judge mentioned, that of inexperienced or incompetent individuals attempting to alter students' attitudes or behavior by means of sensitive psychological procedures. On the other hand, there is the danger of physical abuse of children in attempts to modify their behavior.

The recent Senate hearings on aspects of the CHAMPUS program have brought out allegations that emotionally disturbed children and antisocial, delinquent children have been beaten, forced to lie all night in shallow graves, excessively treated with drugs, and kept in solitary confinement for months at a time. I make no judgment as to the substance of these charges, but I do think they demonstrate that the Federal Government, when spending tax dollars on programs intended to change or prevent the delinquent behavior of children and juveniles, must take steps to insure that children will not be harmed or abused by these very programs. It is for this reason that I offered my amendment to S. 821 to require parental consent before nonadjudicated juveniles are subjected to behavior modification programs involving "the use of drugs or electrical stimuli or other potentially harmful treatment." The phrase "other potentially harmful treatment" includes various forms of group, as well as individual, psychotherapy which are found to present a psychological or emotional hazard to impressionable juveniles, either inherently, or because of inadequately qualified or trained staff. In the absence of specific guidelines, I believe that parental consent offers the best protection against the abuse of children. Let me remind you that in this case we are not talking about convicted juvenile offenders whom the courts have placed in youth detention centers or homes. We are talking about the more frequent "problem kids" who have not yet gone seriously afoul of the law, and who may be placed in special programs in the schools or elsewhere. Yet this should not imply that convicted juveniles should be subject to any kind of behavior modification technique, "for his own good," and that of society. Such an assumption could lead us into the dangerous swamp of psychosurgery and other highly questionable techniques.

While the committee did not address these issues, perhaps some thought could be given to them in conference, on the basis of the acceptance of my amendment.

One useful idea might be the incorporation of the recent HEW guidelines on the "rights of human subjects" of federally supported research activities, especially as S. 821 calls for the States to fund new, advanced techniques to prevent delinquency, and provides for a separate research and development component at the Federal level. I shall ask

unanimous consent that the HEW guidelines be printed at the conclusion of these remarks. The conference might also consider language to protect the confidentiality of personal records of nonadjudicated juveniles which may be created by various programs funded under this act. Permitting indiscriminate access to or transfer of such records could prove seriously damaging to the individual involved.

In any event, the Justice Department and LEAA have not had a great deal of experience in such kinds of activities as these, and they would do well to seriously consider and develop guidelines relating to the important ethical and civil rights issues which interface with these activities.

There is another aspect of the bill that concerns me, namely, the inserting of the Secretary of Labor into the administration of State programs. This seems to be an unnecessary addition to the bill which could well cause excessive administration delays and foulups. The substitute bill already had sufficient language in it to protect the interests of State and local government employees indirectly affected by this legislation. Further, the requirement that continued employment be offered to any State or local government employees adversely affected by the implementation of this legislation is a case of excessive protectionism which may prevent State and local government from taking needed cost and efficiency measures, and which smacks of featherbedding by Federal legislative fiat.

Finally, I fear that we are again promoting the idea that if we throw enough money at a problem, it will go away. I am particularly concerned with this attitude in regard to juvenile delinquency, for this is especially an area in which money cannot assure us success. Indeed, too much money and too little personal care and attention is regarded as one of the contributing factors to juvenile delinquency. The causes and prevention of juvenile delinquency very much involve personal relationships, matters of the spirit, and personal values. We would probably do equally well fighting juvenile delinquency by finding ways to discourage the break up of families and the disintegration of the sense of community, as by funding psychologists and counselors to change the behavior of potentially or actually aberrant juveniles—and at less cost.

Mr. President, although I supported S. 821, for the reasons I have mentioned I did so with reluctance. If the President chooses to veto this legislation on substantive grounds, I may feel compelled to uphold the veto, in the hopes of achieving the best possible legislation for dealing with the serious problems of juvenile delinquency.

Mr. President, I ask unanimous consent that the HEW guidelines to which I previously referred be printed in the RECORD.

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

Subtitle A of Title 45 of the Code of Federal Regulations is amended by adding a new Part 46, as follows:

Sec.

46.1 Applicability.
46.2 Policy.
46.3 Definitions.
46.4 Submission of assurances.
46.5 Types of assurances.
46.6 Minimum requirements for general assurances.
46.7 Minimum requirements for special assurances.
46.8 Evaluation and disposition of assurances.
46.9 Obligation to obtain informed consent; prohibition of exculpatory clauses.
46.10 Documentation of informed consent.
46.11 Certification, general assurances.
46.12 Certification, special assurances.
46.13 Proposals lacking definite plans for involvement of human subjects.
46.14 Proposals submitted with the intent of not involving human subjects.
46.15 Evaluation and disposition of proposals.
46.16 Cooperative activities.
46.17 Investigational new drug 30-day delay requirement.
46.18 Organization's executive responsibility.
46.19 Organization's records; confidentiality.
46.20 Reports.
46.21 Early termination of awards; evaluation of subsequent applications.
46.22 Conditions.

AUTHORITY: 5 U.S.C. 301.

§ 46.1 Applicability.

(a) The regulations in this part are applicable to all Department of Health, Education, and Welfare grants and contracts supporting research, development, and related activities in which human subjects are involved.

(b) The Secretary may, from time to time, determine in advance whether specific programs, methods, or procedures to which this part is applicable place subjects at risk, as defined in § 46.3(b). Such determinations will be published as notices in the FEDERAL REGISTER and will be included in an appendix to this part.

§ 46.2 Policy.

(a) Safeguarding the rights and welfare of subjects at risk in activities supported under grants and contracts from DHEW is primarily the responsibility of the organization which receives or is accountable to DHEW for the funds awarded for the support of the activity. In order to provide for the adequate discharge of this organizational responsibility, it is the policy of DHEW that no activity involving human subjects to be supported by DHEW grants or contracts shall be undertaken unless a committee of the organization has reviewed and approved such activity, and the organization has submitted to DHEW a certification of such review and approval, in accordance with the requirements of this part.

(b) This review shall determine whether these subjects will be placed at risk, and, if risk is involved, whether:

(1) The risks to the subject are so outweighed by the sum of the benefit to the subject and the importance of the knowledge to be gained as to warrant a decision to allow the subject to accept these risks;

(2) the rights and welfare of any such subjects will be adequately protected;

(3) legally effective informed consent will be obtained by adequate and appropriate methods in accordance with the provisions of this part; and

(4) the conduct of the activity will be reviewed at timely intervals.

(c) No grant or contract involving human subjects at risk shall be made to an individual unless he is affiliated with or sponsored by an organization which can and does assume responsibility for the subjects involved.

§ 46.3. Definitions.

(a) "Organization" means any public or private institution or agency (including Federal, State, and local government agencies).

(b) "Subject at risk" means any individual who may be exposed to the possibility of injury, including physical, psychological, or social injury, as a consequence of participation as a subject in any research, development, or related activity which departs from the application of those established and accepted methods necessary to meet his needs, or which increases the ordinary risks of daily life, including the recognized risks inherent in a chosen occupation or field of service.

(c) "Informed consent" means the knowing consent of an individual or his legally authorized representative, so situated as to be able to exercise free power of choice without undue inducement or any element of force, fraud, deceit, duress, or other form of constraint or coercion. The basic elements of information necessary to such consent include:

(1) a fair explanation of the procedures to be followed, and their purposes, including identification of any procedures which are experimental;

(2) a description of any attendant discomforts and risks reasonably to be expected;

(3) a description of any benefits reasonably to be expected;

(4) a disclosure of any appropriate alternative procedures that might be advantageous for the subject;

(5) an offer to answer any inquiries concerning the procedures; and

(6) an instruction that the person is free to withdraw his consent and to discontinue participation in the project or activity at any time without prejudice to the subject.

(d) "Secretary" means the Secretary of Health, Education, and Welfare or any other officer or employee of the Department of Health, Education, and Welfare to whom authority has been delegated.

(e) "DHEW" means the Department of Health, Education, and Welfare.

(f) "Approved assurance" means a document that fulfills the requirements of this part and is approved by the Secretary.

(g) "Certification" means the official organizational notification to DHEW in accordance with the requirements of this part that a project or activity involving human subjects at risk has been reviewed and approved by the organization in accordance with the "approved assurance" on file at DHEW.

(h) "Legally authorized representative" means an individual or judicial or other body authorized under applicable law to consent on behalf of a prospective subject to such subject's participation in the particular activity or procedure.

§ 46.4 Submission of assurances.

(a) Recipients or prospective recipients of DHEW support under a grant or contract involving subjects at risk shall provide written assurance acceptable to DHEW that they will comply with DHEW policy as set forth in this part. Each assurance shall embody a statement of compliance with DHEW requirements for initial and continuing committee review of the supported activities; a set of implementing guidelines, including identification of the committee and a description of its review procedures; or, in the case of special assurances concerned with single activities of projects, a report of initial findings of the committee and of its proposed continuing review procedures.

(b) Such assurance shall be executed by an individual authorized to act for the organization and to assume on behalf of the organization the obligations imposed by this part, and shall be filed in such form and manner as the Secretary may require.

§ 46.5 Types of assurances.

(a) *General assurances.* A general assurance describes the review and implementation procedures applicable to all DHEW-supported activities conducted by an organization regardless of the number, location, or types of its components or field activities. General assurances will be required from organizations having a significant number of concurrent DHEW supported projects or activities involving human subjects.

(b) *Special assurances.* A special assurance will, as a rule, describe those review and implementation procedures applicable to a single activity or project. A special assurance will not be solicited or accepted from an organization which has on file with DHEW an approved general assurance.

§ 46.6 Minimum requirements for general assurances.

General assurances shall be submitted in such form and manner as the Secretary may require. The organization must include, as part of its general assurance, implementing guidelines that specifically provide for:

(a) A statement of principles which will govern the organization in the discharge of its responsibilities for protecting the rights and welfare of subjects. This may include appropriate existing codes or declarations, or statements formulated by the organization itself. It is to be understood that no such principles supersede DHEW policy or applicable law.

(b) A committee or committee structure which will conduct initial and continuing reviews in accordance with the policy outlined in § 46.2. Such committee structure or committee shall meet the following requirements:

(1) The committee must be composed of not less than five persons with varying backgrounds to assure complete and adequate review of activities commonly conducted by the organization. The committee must be sufficiently qualified through the maturity, experience, and expertise of its members and diversity of its membership to insure respect for its advice and counsel for safeguarding the rights and welfare of human subjects. In addition to possessing the professional competence necessary to review specific activities, the committee must be able to ascertain the acceptability of proposals in terms of organizational commitments and regulations, applicable law, standards of professional conduct and practice, and community attitudes. The committee must therefore include persons whose concerns are in these areas.

(2) The committee members shall be identified to DHEW by name; earned degrees, if any; position or occupation; representative capacity; and by other pertinent indications of experience such as board certification, licenses, etc., sufficient to describe each member's chief anticipated contributions to committee deliberations. Any employment or other relationship between each member and the organization shall be identified, i.e., full-time employee, part-time employee, member of governing panel or board, paid consultant, unpaid consultant. Changes in committee membership shall be reported to DHEW in such form and at such times as the Secretary may require.

(3) No member of a committee shall be involved in either the initial or continuing review of an activity in which he has a conflicting interest except to provide information requested by the committee.

(4) No committee shall consist entirely of persons who are officers, employees, or agents, of, or are otherwise associated with the organization, apart from their membership on the committee.

(5) No committee shall consist entirely of members of a single professional group.

(6) The quorum of the committee shall be defined, but may in no event be less than a majority of the total membership duly convened to carry out the committee's responsibilities under the terms of the assurance.

(c) Procedures which the organization will follow in its initial and continuing review of proposals and activities.

(d) Procedures which the committee will follow (1) to provide advice and counsel to activity directors and investigators with regard to the committee's actions, (2) to insure prompt reporting to the committee of proposed changes in an activity and of unanticipated problems involving risk to subjects or others and (3) to insure that any such problems, including adverse reactions to biologicals, drugs, radioisotope labeled drugs, or to medical devices, are promptly reported to the DHEW.

(e) Procedures which the organization will follow to maintain an active and effective committee and to implement its recommendations.

§ 46.7 Minimum requirements for special assurances.

Special assurances shall be submitted in such form and manner as the Secretary may require. An acceptable special assurance shall:

(a) Identify the specific grant or contract involved by its number, if known; by its full title; and by the name of the activity or project director, principal investigator, fellow, or other person immediately responsible for the conduct of the activity. The assurance shall be signed by the individual members of a committee satisfying the requirements of § 46.6(b) and be endorsed by an appropriate organizational official.

(b) Describe the makeup of the committee and the training, experience, and background of its members, as required by § 46.6(b)(2).

(c) Describe in general terms the risks to subjects that the committee recognizes as inherent in the activity, and justify its decision that these risks are so outweighed by the sum of the benefit to the subject and the importance of the knowledge to be gained as to warrant the committee's decision to permit the subject to accept these risks.

(d) Describe the informed consent procedures to be used and attach documentation as required by § 46.10.

(e) Describe procedures which the committee will follow to insure prompt reporting to the committee of proposed changes in the activity and of any unanticipated problems, involving risks to subjects or others and to insure that any such problems, including adverse reactions to biologicals, drugs, radioisotope labelled drugs, or to medical devices are promptly reported to DHEW.

(f) Indicate at what time intervals the committee will meet to provide for continuing review. Such review must occur no less than anually.

§ 46.8 Evaluation and disposition of assurances.

(a) All assurances submitted in accordance with § 46.6 and 46.7 shall be evaluated by the Secretary through such officers and employees of the DHEW and such experts or consultants engaged for this purpose as he determines to be appropriate. The Secretary's evaluation shall take into consideration, among other pertinent factors, the adequacy of the proposed committee in the light of the anticipated scope of the applicant organization's activities and the types of subject populations likely to be involved, the appropriateness of the proposed initial and continuing review procedures in the light of the probable risks, and the size and complexity of the organization.

(b) On the basis of his evaluation of an assurance pursuant to paragraph (a) of this section, the Secretary shall (1) approve, (2) enter into negotiations to develop a more satisfactory assurance, or (3) disapprove. With respect to approved assurances, the Secretary may determine the period during which any particular assurance or class of assurances shall remain effective or otherwise condition or restrict his approval. With respect to negotiations, the Secretary may, pending completion of negotiations for a general assurance, require an organization otherwise eligible for such an assurance, to submit special assurances.

§ 46.9 Obligation to obtain informed consent; prohibition of exculpatory clauses.

Any organization proposing to place any subject at risk is obligated to obtain and document legally effective informed consent. No such informed consent, oral or written, obtained under an assurance provided pursuant to this part shall include any exculpatory language through which the subject is made to waive, or to appear to waive, any of his legal rights, including any release of the organization or its agents from liability for negligence.

§ 46.10 Documentation of informed consent.

The actual procedure utilized in obtaining legally effective informed consent and the basis for committee determinations that the procedures are adequate and appropriate shall be fully documented. The documentation of consent will employ one of the following three forms:

(a) Provision of a written consent document embodying all of the basic elements of informed consent. This may be read to the subject or to his legally authorized representative, but in any event he or his legally authorized representative must be given adequate opportunity to read it. This document is to be signed by the subject or his legally authorized representative. Sample copies of the consent form as approved by the committee are to be retained in its records.

(b) Provision of a "short form" written consent document indicating that the basic elements of informed consent have been presented orally to the subject or his legally authorized representative. Written summaries of what is to be said to the patient are to be approved by the committee. The short form is to be signed by the subject or his legally authorized representative and by an auditor witness to the oral presentation and to the subject's signature. A copy of the approved summary, annotated to show any additions, is to be signed by the persons officially obtaining the consent and by the auditor witness. Sample copies of the consent form and of the summaries as approved by the committee are to be retained in its records.

(c) Modification of either of the primary procedures outlined in paragraphs (a) and (b) of this section. Granting of permission to use modified procedures imposes additional responsibility upon the review committee and the organization to establish: (1) that the risk to any subject is minimal, (2) that use of either of the primary procedures for obtaining informed consent would surely invalidate objectives of considerable immediate importance, and (3) that any reasonable alternative means for attaining these objectives would be less advantageous to the subjects. The committee's reasons for permitting the use of modified prcedures must be individually and specifically documented in the minutes and in reports of committee actions to the files of the organization. All such modifications should be regularly reconsidered as a function of continuing review and as required for annual review, with documentation of reaffirmation, revision, or discontinuation, as appropriate.

§ 46.11 Certification, general assurances.

(a) *Timely review.* Unless the Secretary otherwise provides, all proposals involving human subjects submitted by organizations having approved general assurances must be given review and, when found to involve subject at risk, approval, prior to submission to DHEW. In the event the Secretary provides for the performance of organiza-

tional review of a proposal after its submission to DHEW, processing of such proposal by DHEW will under no circumstances be completed until such organizational review and approval has been certified. Unless the organization determines that human subjects are not involved, the proposal or application should be appropriately certified in the spaces provided on forms, or one of the following certifications, as appropriate, should be typed on the lower or right hand margin of the page bearing the name of an official authorized to sign or execute applications or proposals for the organization.

Human Subjects: Reviewed, Not at Risk, _____
(date)

Human Subjects: Reviewed. At Risk, Approved_____
(date)

(b) *Proposals not certified.* Proposals not properly certified, or submitted as not involving human subjects and found by the operating agency to involve human subjects, will be returned to the organization concerned.

§ 46.12 Certification, special assurances.

(a) An applicant organization not having on file with DHEW an approved general assurance must submit for each application or proposal involving human subjects a separate special assurance and certification of its review and approval.

(b) Such assurance and certification must be submitted within such time limit as the Secretary may specify. An assurance and certification prepared in accordance with this part and approved by DHEW shall be considered to have met the requirement for certification for the initial grant or contract period concerned. If the terms of the grant or contract recommend additional support periods, certification shall be provided by the organization with applications for continuation or renewal of support in the manner prescribed in § 46.11(a).

§ 46.13 Proposals lacking definite plans for involvement of human subjects.

Certain types of proposals are submitted with the knowledge that subjects are to be involved within the support period, but definite plans for this involvement would not normally be set forth in the proposal. These include such activities as (a) institutional type grants where selection of projects is the responsibility of the institution, (b) training grants where training projects remain to be selected, and (c) research, pilot, or developmental studies in which involvement depends upon such things as the completion of instruments, or of prior animal studies, or upon the purification of compounds. Such proposals shall be reviewed and certified in the same manner as more definitive proposals. The initial certification indicates organizational approval of the applications as submitted, and commits the organization to later review of the plans when completed. Such later review and certification to the DHEW should be completed prior to the beginning of the budget period during which actual involvement of human subjects is to begin. Review and certification to the DHEW must in any event be completed prior to involvement of human subjects.

§ 46.14 Proposals submitted with the intent of not involving human subjects.

If a proposal does not anticipate involving or intend to involve human subjects, no certification should be included with the initial submission of the proposal. In those instances, however, when later it becomes appropriate to use all or part of awarded funds for one or more activities which will involve subjects, each such activity shall be reviewed and approved in accordance with the assurance of the organization prior to the involvement of subjects. In addition, no such activity shall be undertaken until the organization has submitted to DHEW: (a) a certification that the activity has been reviewed and approved in accordance with this part, and (b) a detailed description of the proposed activity (including any protocol or similar document). Also, where support is provided by project grants or contracts, subjects shall not be involved prior to certification and organizational receipt of DHEW approval and, in the case of contracts, prior to negotiation and approval of an amended contract description of work.

§ 46.15 Evaluation and disposition of proposals.

(a) Notwithstanding any prior review, approval, and certification by the organization, all grant and contract proposals involving human subjects at risk submitted to the DHEW shall be evaluated by the Secretary for compliance with this part through such officers and employees of the Department and such experts or consultants engaged for this purpose as he determines to be appropriate. This evaluation may take into account, among other pertinent factors, the apparent risks to the subjects, the adequacy of protection against these risks, the potential benefits of the activity to the subjects and to others and the importance of the knowledge to be gained.

(b) Disposition. On the basis of his evaluation of an application pursuant to paragraph (a) of this section and subject to such approval or recommendation by or consultation with appropriate councils, committees, or other bodies as may be required by law, the Secretary shall (1) approve, (2) defer for further evaluation, or (3) disapprove support of the proposed activity in whole or in part. With respect to any approved grant or contract, the Secretary may impose conditions, including restrictions on the use of certain procedures, or certain subject groups, or requiring use of specified safeguards or informed consent procedures when in his judgment such conditions are necessary for the protection of human subjects.

§ 46.16 Cooperative activities.

Cooperative activities are those which involve organizations in addition to the grantee or prime contractor (such as a contractor under a grantee or a subcontractor under a prime contractor). If, in such instances, the grantee or prime contractor obtains access to all or some of the subjects involved through one or more cooperating organizations, the basic DHEW policy applies and the grantee or prime contractor remains responsible for safeguarding the rights and welfare of the subjects.

(a) *Organization with approved general assurance.* Initial and continuing review by the organization may be carried out by one or a combination of procedures:

(1) Cooperating organization with approved general assurance. When the cooperating organization has on file with DHEW an approved general assurance, the grantee or contractor may, in addition to its own review, request the cooperating organization to conduct an independent review and to report its recommendations on those aspects of the activity that concern individuals for whom the cooperating organization has responsibility under its own assurance to the grantee's or contractor's committee. The grantee or contractor may, at its discretion, concur with or further restrict the recommendations of the cooperating organization. It is the responsibility of the grantee or contractor to maintain communication with the committees of the cooperating organization. However, the cooperating organization, shall promptly notify the grantee or contracting organization whenever the cooperating organization finds the conduct of the project or activity within its purview unsatisfactory.

(2) Cooperating organization with no approved general assurance. When the cooperating organization does not have an approved general assurance on file with DHEW, the DHEW may require the submission of a general or special assurance which, if approved, will permit the grantee or contractor to follow the procedure outlined in the preceding subparagraph.

(3) Interorganizational joint review. The grantee or contracting organization may wish to develop an agreement with cooperating organizations to provide for a review committee with representatives from cooperating organizations. Representatives of cooperating organizations may be appointed as ad hoc members of the grantee or contracting organization's existing review committee or, if cooperation is on a frequent or continuing basis as between a medical school and a group of affiliated hospitals, appointments for extended periods may be made. All such cooperative arrangements must be approved by DHEW as part of a general assurance, or as an amendment to a general assurance.

(b) *Organizations with special assurances.* While responsibility for initial and continuing review necessarily lies with the grantee or contracting organization. DHEW may also require approved assurances from those cooperating organizations having immediate responsibility for subjects.

If the cooperating organization has on file with DHEW an approved general assurance, the grantee or contractor shall request the cooperating organization to conduct its own independent review of those aspects of the project or activity which will involve human subjects for which it has responsibility. Such a request shall be in writing and should provide for direct notification of the grantee's or contractor's committee in the event that the cooperating organization's committee finds the conduct of the activity to be unsatisfactory. If the cooperating organization does not have an approved general assurance on file with DHEW, it must submit to DHEW a general or special assurance which is determined by DHEW to comply with the provisions of this part.

§ 46.17 Investigational new drug 30-day delay requirement.

Where an organization is required to prepare or to submit a certification under §§ 46.11, 46.12, 46.13, or 46.14 and the proposal involves an investigational new drug within the meaning of The Food, Drug, and Cosmetic Act, the drug shall be identified in the certification together with a statement that the 30-day delay required by 21 CFR 130.3(a)(2) has elapsed and the Food and Drug Administration has not, prior to expiration of such 30-day interval, requested that the sponsor continue to withhold or to restrict use of the drug in human subjects; or that the Food and Drug Administration has waived the 30-day delay requirement; provided, however, that in those cases in which the 30-day delay interval has neither expired nor been waived, a statement shall be forwarded to DHEW upon such expiration or upon receipt of a waiver. No certification shall be considered acceptable until such statement has been received.

§ 46.18 Organization's executive responsibility.

Specific executive functions to be conducted by the organization include policy development and promulgation and continuing indoctrination of personnel. Appropriate administrative assistance and support shall be provided for the committee's functions. Implementation of the committee's recomendations through appropriate administrative action and followup is a condition of DHEW approval of an assurance. Committee approvals, favorable actions, and recommendations are subject to review and to disapproval or further restriction by the organization officials. Committee disapprovals, restrictions, or conditions cannot be rescinded or removed except by action of a committee described in the assurance approved by DHEW.

§ 46.19 Organization's records confidentiality.

(a) Copies of all documents presented or

required for initial and continuing review by the organization's review committee, such as committee minutes, records of subject's consent, transmittals on actions, instructions, and conditions resulting from committee deliberations addressed to the activity director, are to be retained by the organization, subject to the terms and conditions of grants and contract awards.

(b) Except as otherwise provided by law information in the records or possession of an organization acquired in connection with an activity covered by this part, which information refers to or can be identified with a particular subject may not be disclosed except:

(1) with the consent of the subject or his legally authorized representative or;

(2) as may be necessary for the Secretary to carry out his responsibilities under this part.

§ 46.20 Reports.

Each organization with an approved assurance shall provide the Secretary with such reports and other information as the Secretary may from time to time prescribe.

§ 46.21 Early termination of awards; evaluation of subsequent applications.

(a) If, in the judgment of the Secretary an organization has failed materially to comply with the terms of this policy with respect to a particular DHEW grant or contract, he may require that said grant or contract be terminated or suspended in the manner prescribed in applicable grant or procurement regulations.

(b) In evaluating proposals or applications for support of activities covered by this part, the Secretary may take into account, in addition to all other eligibility requirements and program criteria, such factors as: (1) whether the offeror or applicant has been subject to a termination or suspension under paragraph (a) of this section, (2) whether the offeror or applicant or the person who would direct the scientific and technical aspects of an activity has in the judgment of the Secretary failed materially to discharge his, her, or its responsibility for the protection of the rights and welfare of subjects in his, her, or its care (whether or not DHEW funds were involved), and (3) whether, where past deficiencies have existed in discharging such responsibility, adequate steps have in the judgment of the Secretary been taken to eliminate these deficiencies.

§ 46.22 Conditions.

The Secretary may with respect to any grant or contract or any class of grants or contracts impose additional conditions prior to or at the time of any award when in his judgment such conditions are necessary for the protection of human subjects.

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THE TIME HAS COME FOR BETTER CHILD HEALTH CARE IN AMERICA

Mr. HUMPHREY. Mr. President, action by this Government is long overdue in attacking the problem of establishing comprehensive health care for American infants, children, and adolescents. I cannot understand why the richest nation in the world, in fact the richest in the history of mankind, cannot provide even minimal health care for all our children.

We have all heard the statistics before. The United States ranks 15th in the world in infant mortality. That means that a child born in England, Wales, Japan, Sweden, France, Canada, or eight other nations, would have a better chance of living through his first year than in America. To be more explicit, if we had the same rate as Sweden, 50,000 fewer American babies would have died last year. Moreover, in 1952, the United States had the lowest rate of maternal mortality in the world; but today we are 12th.

But these mortality levels, which are profoundly disturbing, are national averages which hide even more shocking statistics.

For minorities and those at the bottom of the economic scale in the United States, the situation is far worse. Infant mortality among nonwhites is nearly double the rate for whites. There are eight States where the infant death rate for minority children is over 75 percent higher than the national average for whites. The poor average 50 percent more disability days per year than the nonpoor. Poor children have seven times more visual impairments, five times more mental illness, three times more heart disease, and six times more hearing defects than more affluent children.

I know that we Americans are very concerned about the well-being of our children, so why do we let child health care take a back seat to so many of our governmental programs? Why do we let this administration mismanage, misdirect, and impound funds that the Congress has authorized and appropriated for our child health care programs? The few programs we have for health care for children are continually threatened by the actions of this administration.

What is the response of the administration to the health problems of children and youth? A recent study for the U.S. Department of Health, Education, and Welfare estimates that of all the American children found to need medical treatment, less than half actually got it, and even fewer received the recommended dental and eye care. HEW Secretary Caspar W. Weinberger's reply to this study, during a recent interview in an ABC–TV program, entitled "Children: A Case of Neglect," was:

I'm not familiar with those statistics, but . . . we are undoubtedly in a situation in some states where they haven't yet established the necessary networks of providers and of care . . .

Secretary Weinberger is right. We have an inequitable distribution of health manpower in America. Too many doctors are in the affluent suburbs and not in the areas of greatest need, the center cities and remote rural areas. But the child health problem is, of course, much more complex than a maldistribution of medical talent.

ADMINISTRATION POLICY FAILURES

One thing is clear. This administration has contributed to the problem by its footdragging on many vital child health care programs.

The administration's commitment to improving the quality of health care has been characterized by procrastination. In July of 1969, President Nixon addressed the health crisis by stating:

We face a massive crisis in this area and, unless action is taken, both administratively and legislatively, to meet that crisis within the next two or three years, we will have a breakdown in our medical care system which would have consequences affecting millions of people throughout this country.

In February of 1971, President Nixon admitted that adequate action had not been taken to help solve our health crisis:

Nineteen months ago I said America's medical system faced a "massive crisis"; since that statement was made the crisis has deepened.

Two months ago the President conceded that the patchwork of Federal health programs which he has administered has not helped solve the health crisis. After 5 years in office he announced:

We must have legislation to insure that every American has access to high quality health care.

Over the past 5 years Congress has done its share in authorizing and appropriating funds to extend health care programs for children. Over the past three Congresses, the key child health programs conducted by HEW's various health agencies and by the Department of Agriculture have been perfected and extended by Congress with authorizations set at those levels experts agree are needed.

However, the administration has consistenly thwarted the will of Congress by requesting inadequate amounts for appropriation in its budget, by phasing out programs, and by opposing efforts to bring the programs up to an adequate funding level.

At the end of the 91st Congress President Nixon pocket vetoed S. 3418, the Family Practice of Medicine Act, which would have increased the supply of family doctors and would have had direct benefits for American children. Two other key congressional programs to help cope with the Nation's health crisis and help our children were also vetoed by President Nixon. In June of 1970, he vetoed H.R. 11102, the Hill-Burton Medical Services Facilities Construction and Modernization Amendments of 1969, after it had passed the House unanimously. The President also vetoed S. 504, the Emergency Medical Services Act of 1973, which would have authorized $185 million over 3 years for development of emergency medical services and prevented the closing of eight Public Health Service hospitals.

In addition to vetoing these vital health programs which affect everyone, especially our children, the President has used the veto to block congressional increases in appropriations for child health care programs. He vetoed the fiscal year 1970 Labor-HEW appropriations bill, in part because it contained $222 million extra for health programs, including several highly successful programs which were directly related to maternal and child health. Presidential use of the veto also forced the scuttling of the fiscal year 1973 Labor-HEW appropriations legislation altogether, and the Departments of Labor and HEW were forced to operate by continuing resolution throughout fiscal year 1973. A major reason given for this veto was a $500 million appropriation supported by Congress for health programs, which was over the administration request.

In addition to vetoing new health programs and health appropriations, this administration's attitude toward funding for child health is illustrated by com-

paring the fiscal year 1975 request by the administration and the congressional authorization or the amounts experts believe are needed to adequately fund these programs. The following table reveals this administration's lack of full commitment to quality child health care:

FY 1975 request and authorization need:

		(*Millions*)
Community Health services	$314.4	$353.2
Maternal and Child health	265.9	292.5
Family Planning Services	100.6	135.0
National Health Service Corps	9.3	14.3
Patient Care and Special Health Service	109.2	128.7
National Institute of Child Health and Human Development	124.9	143.3

The administration has also failed to implement adequately the existing child health care programs. A classic example of this is 7 years of footdragging and mismanagement of a program of early and periodic screening, diagnosis and treatment (EPSDT). This program was supposed to alleviate the great disparity in the health of low-income children compared to more affluent American youngsters, but because of procrastination by this administration it is still not adequately implemented. Exasperated by this delay, Congress set a July 1, 1974, deadline for the final implementation. July 1 has come and gone and HEW is still dragging its feet.

There are many other actions taken by this administration which have hurt the cause of better child health care. The Children's Bureau of HEW which handled all Federal child health care programs since 1912, was dissolved by this administration in 1969. It was scattered throughout the maze of the bureaucracy; therefore, a traditional advocate of children and youth in HEW has been effectively dissipated.

In still another action which is equally hard to understand, the administration slashed the staff of the Maternal and Child Health Service from 130 to just 6. Also, the HEW Office of Child Development, which deals directly with child health care programs, has had no permanent director for over 2 years.

How can we solve the child health care crisis with these actions? I cannot understand why this administration continually puts children last instead of first.

Mr. President, Congress must take special pains to counteract the policy failures of this administration on the vital issue of child health care.

First, we need to make sure that our current successful programs are fully and adequately funded.

Second, we have to remember that good child health care includes services beyond purely medical care. We must make sure that children get the services of nutritionists, social workers, family counselors, speech and hearing therapists, and special educators.

Third, we must respond to the need for special care for our handicapped children.

CHILD AND MATERNAL HEALTH CARE

To improve this Nation's child health care program, the problems of high health costs and the problems caused by the maldistribution of primary health care providers must be alleviated. Only by addressing these basic problems can the infrequency of physician visits to large proportions of American children be reduced. All infants, children, and pregnant women, without regard to their place of residence, family income, or race have a right to equal access to medical diagnosis, screening, and comprehensive medical care.

I have introduced the Child and Maternal Health Care Extension Act, S. 3106, which authorizes a decisive Federal response to the critical deficiencies in the availability as well as the financing of early diagnosis, screening, and treatment of child and maternal health conditions for lower-income families and for areas of the country without such care. The bill is designed to provide the means by which child and maternal health problems can be identified, treated immediately, or referred to a major hospital for additional care.

A key feature of this legislation is the authorization of grants to the States to establish mobile health care facilities in physician-shortage areas. These grants would be given to counties within each State that do not have a practicing pediatrician, or for counties with a seriously inadequate number of child health care providers as defined by the Secretary of HEW.

Another way of relieving the crisis situation in this country's child health care system is the expanded use of pediatric nurse practitioners. While the Federal Government has provided some funds for the training of pediatric nurse practitioners, much more needs to be done. My bill includes a provision to authorize the Secretary of HEW to make grants to institutions of higher education for the training of pediatric nurses so that we may have more of these primary health providers throughout America.

It also encourages the expanded use of pediatric nurse practitioners by authorizing the reimbursement under title XIX of the Social Security Act for medical care provided by a pediatric nursing practitioner.

My bill would also amend section 505 (a) (7) of the Social Security Act to require that as a condition for receiving Federal allotments, State plans must provide for comprehensive health care and services for prematurely born infants and for full-term infants who have defects or conditions which are life threatening or handicapping and which can be corrected or ameloriated.

This section is also amended to require that by fiscal 1979, State plans should provide for comprehensive health care and services to all children under 6 years of age whose health is threatened or has been impaired seriously by a major trauma, a life-threatening illness, or an illness of catastrophic nature.

Furthermore, section 7 of my bill would amend section 505(a) of the Social Security Act to add a new requirement that States shall have plans to provide comprehensive maternity and infant care for low-income families. This care would include prenatal care, care during and after childbirth, and related hospital services for mothers, and comprehensive medical care for infants during their first year of life.

Mr. President, I strongly believe that action on legislation containing provisions such as I have described should be a priority agenda for the Senate in the remaining months of the 93d Congress. In the light of current estimates that consideration of national health insurance legislation will have to be carried over into the next Congress, it is particularly important that this Congress establish a record in addressing the child health care crisis in America.

Moreover, the provisions of S. 3106 carry through the two key principles cited by experts in the child health care field as essential to achieving effects improvements in health services in the shortest possible time.

First, these provisions spell out a health care system of special resources targeted on areas of greatest need.

Second, they provide the mechanisms for actually putting services in place as quickly as possible. This explains, in part, the thrust of my bill to provide additional tools for the operation of the title 5 Maternal and Child Health and Crippled Children's Services, under which significant programs have been started across the Nation.

It is particularly important that these programs—children and youth, maternity and infant care, and intensive care of infants, family planning, and dental care—now be strengthened and given new dimensions. Contrary to congressional intent, these programs, by contrast, are experiencing serious staff and resources reductions under current policies of the administration associated with the transfer of these programs to the States, as Federal assistance is slated to change from direct project grants to formula grants to the States.

CHILD NUTRITION

Nutrition is central to good health and a productive life. This is especially true for children.

Two pioneer investigators into the effects of malnutrition on brain development, Dr. Myron Winick and Dr. Pedro Rosso of the New York Hospital-Cornell Medical Center, have stated:

> A child who is poorly fed during early infancy may never attain his full brain growth, even though he is well fed thereafter. Similarly, a fetus, malnourished in the womb, may never make up for the brain cells and structures that never came properly into being. Malnutrition both before and after birth virtually dooms a child to stunted brain development and therefore to considerably diminished mental capacity for the rest of his life.

We must make sure that every child attending school, no matter what his family's financial status, receives at least one nutritious meal a day. We must eliminate once and for all the degrading procedure of singling out certain children as eligible for a free lunch and others not. We must also establish a sound nutrition education program in all of our schools across the Nation. Good nutrition has an impact upon the ability of students to learn, to maintain better

health, to reduce absenteeism and lower the dropout rate.

As a member of the Senate Select Committee on Nutrition and Human Needs, I have been deeply concerned that Congress move forward on a legislative program that recognizes nutrition as a basic building block of good health for American children. I have introduced S. 3123, the Child Nutrition Act of 1974, which calls for the establishment of a universal school lunch program—available to all children without regard to the level of family income. And I was gratified at the recent enactment of legislation which I jointly sponsored, the National School Lunch and Child Nutrition Act Amendments of 1974, which expands and improves existing child feeding programs, and increases authorizations for the vitally important program of food supplementation for women, infants, and children, which I was privileged to author.

CARE FOR HANDICAPPED CHILDREN

Mr. President, the millions of handicapped children in America must also be served under a comprehensive program of child health care. The fact, however, is that inadequate efforts by the States on behalf of handicapped children have been met with indifference by this administration.

There are over 4½ million handicapped school children who are excluded from public schools in America. Something must be done to help these children. Every handicapped child deserves educational services at least equal to expenditures for other children in our school districts.

To that end, I have introduced S. 2095, that would provide that a local educational agency shall not receive Federal financial assistance for which it is otherwise eligible, if it does not provide educational services to the handicapped children.

Another vital step has been taken in the passage of the Education Amendments of 1974, H.R. 69, which contains a provision, jointly sponsored by Senator MATHIAS and myself, for a major program of assistance for education for the handicapped. This significant funding authorization, to be followed by action on further legislation, S. 6, can provide for immediate assistance to the States in implementing education programs in response to recent court decisions stipulating that handicapped persons are fully entitled to the equal protection of the laws guaranteed under the Constitution.

CHILD ABUSE PREVENTION AND TREATMENT

Child abuse is another startling part of the American child health care picture. It may come as a shock to many that the highest number of deaths among children are child abuse related. The number of child abuse related deaths is currently around 700 a year, and about 50,000 to 200,000 children suffer from injury and neglect.

I am gratified that Congress has enacted legislation which carries forward certain provisions of my bill, S. 1364, to strengthen the efforts of Government in the development of child abuse and neglect treatment and prevention programs. The legislation, as finally adopted, establishes a National Center on Child Abuse and Neglect. It also authorizes grants for extensive demonstration programs designed to prevent, identify, and treat child abuse and neglect. Finally, it directs a full investigation to be made of the national incidence of child abuse and neglect. These are vital first steps, on the basis of which further programs can and should be developed.

CHILD DEVELOPMENT

Mr. President, there are only about 700,000 spaces in licensed day care centers to serve the 6 million preschool children across America whose mothers work. For a large majority of these children the most that can be expected right now is that they receive custodial care, at best, in their own homes or in the homes of others. One out of every three mothers with preschool children is working today—reflecting a continuing sharp increase—and all too many mothers are unable to find the care, nutrition, health, learning, and development services their children need each day, or they must sacrifice this quality care because of limited earnings.

I want to commend my colleague from Minnesota (Senator MONDALE) as chairman of the Senate Subcommittee on Children and Youth, in developing major legislation to address this urgent problem—S. 3754, The Child and Family Services Act of 1974. As an original cosponsor of this bill, which marks the third time in recent years that the Senate has launched a determined effort to establish programs of Federal assistance for comprehensive child care and development services, I intend to give my full support to helping to secure its enactment. Committed to services that will help strengthen the family and in which child participation will be completely voluntary, the programs authorized in this legislation can meet effectively a critical need across our Nation.

I urge my colleagues to support this excellent and vital legislation.

CONCLUSION

Mr. President, the time for congressional action to promote quality child health care across America is now—we cannot tolerate further delays. We cannot continue with two health systems—one for the poor child, and another for the nonpoor. No matter what a child's economic status, he deserves good health, nutritious food, and a good education.

American children deserve the best health care we can provide. They must be guaranteed the right to hope in the future, and a full opportunity to make the most of their God-given gifts and abilities. Their lives of promise must be the concrete expression of a society and its government that care, of a people that believe in human decency.

ECONOMIC ANALYSIS

Mr. BROCK. Mr. President, more Americans are worried about inflation than any other single national problem. Yet the common analyses of inflation are so misleading that very little effective is being done about it. Let me try to clear up three important points.

First, inflation is not caused by big business or large labor unions. Why would labor favor inflation when union wage rates do not rise as fast as general prices? Why would business favor inflation when real aftertax profits suffer during inflation?

If unions and business cause inflation, why did prices rise from 1952 to 1956, but not from 1962 to 1966? Why are they rising so fast now? Why did inflation in Europe exceed that in the United States until recently? Why is that situation now reversing? There is no evidence that unions and business weakened in 1962 to 1966 and then grew strong again. There is no evidence that they used to be stronger in Europe and are now stronger here.

Second, inflation is not primarily caused by sudden shortages in certain commodities. There are always some prices rising faster than others and it is easy to blame the commodities whose prices are rising fastest for the general inflation.

Consider the case of gasoline. A 30-percent increase in the retail price of gasoline explains perhaps 1 percent of the current 12-percent inflation rate. Prices in Austria, Belgium, West Germany, and Holland are rising by only about 8 percent annually. But these nations import 80 percent of their oil from the Mideast. The United States imports at most 15 percent of its oil from the Mideast. If the oil shortage is the cause of inflation, why is the United States having more inflation than these European nations?

Food provides another example. The United States is a major exporter of food, yet we are having more inflation than certain of the importing countries. Again: During inflation, there will always be some products whose prices rise the most rapidly, but shortages here are not the cause of the overall inflation.

The third point I want to make today is that inflation redistributes income to the Government. As new programs are voted by Congress, Government payrolls and other expenses related to these programs, rise. These are financed by printing money.

At the same time, inflation moves us all into higher tax brackets. The cost of local government services increases, sales taxes rise, and property assessments rise, so we pay more taxes even if tax rates remain unchanged. Corporations pay more because the cost of replacing capital equipment rises faster than aftertax earnings.

The actual causes of inflation have been the fiscal and monetary policies which increased the money supply so quickly. Incorrect remedies, mainly price and wage controls, only aggravated matters by distorting resource allocation, weakening the incentive to produce, and by offering a false hope, one which was certain to be dashed.

We can solve the inflation problem without causing great distress. The Federal Reserve System must reduce the rate of increase in the money supply, not by fits and starts, but steadily. Fiscal

policy must work, to reduce Government spending, also slowly and steadily, and reduce taxes, particularly those which impede investment and production, in proportion. The resources thus transferred to the people will be used to strengthen the economy in those sectors the people determine by their own decisions.

THE EDITORIAL POLICIES OF A GREAT NEWSPAPER, THE MILWAUKEE JOURNAL

Mr. PROXMIRE. Mr. President, on almost every person's list of great newspapers in the United States the Milwaukee Journal is routinely mentioned. Why that is so can be seen in the example of last Sunday's editorial page in which there was not only one first-rate editorial, but three. They were entitled "Forgetting the Energy Crisis," the "Do-Nothing Economic Policy," and "Reforming Welfare." The quality of the editorials is equal to the importance of the subject matter they are on.

Mr. President, I ask unanimous consent that the three editorials from the Sunday, July 28 issues of the Milwaukee Journal be printed in the RECORD.

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

FORGETTING THE ENERGY CRISIS

The nation's inability to begin extracting itself from energy shortage problems is indicated in the latest figures from the petroleum industry's Oil & Gas Journal. They show demand for petroleum products running close to 3% above a year ago. Despite the lower speed limit and all the talk about conservation, demand for gasoline is back up to last year's level.

True, the figures also show that the total supply is up over a year ago. But there is little reason for joy in that. The increase results from greater import of foreign petroleum. Domestic production actually is down.

As a recent editorial in Science magazine, publication of the American Association for the Advancement of Science, noted, this means "we are more dependent on foreign sources than ever" and "more . . . vulnerable to actions of others in the form of new embargoes, price squeezes or economic chaos elsewhere."

There is no way that domestic hydrocarbon needs can be met from increased domestic production of crude oil, Science concludes. As new domestic sources of oil come in—and there is disagreement among scientists on the extent of our oil reserves—"older sources will be closer to exhaustion."

The answer must be development of alternative energy sources, especially to make better use of the country's enormous coal reserve, through safer mining techniques and better means of coal gasification and liquefaction.

Congress, however, is putting together a budget for energy research and development that places by far the highest priority right where it has always been—on nuclear energy, including the environmentally questionable fast breeder reactor. Only 10% of the funds would go for coal research, a piddling 3% for research on energy conservation and a total of only 1% for geothermal and solar energy. These latter categories—potentially the most permanent, safest and environmentally acceptable sources—along with conservation efforts, deserve all of the research efforts, deserve all of the research priority that is required to achieve their great payoff.

What is happening to all the energy concern of just a few months ago? Without an immediate crises hobbling vacation travel or turning bedrooms cold, the American people apparently are forgetting about conservation. And in Washington, the momentum of our traditional priority on nuclear research is shoving aside the energy alternatives that need the biggest push from government.

"DO NOTHING" ECONOMIC POLICY

Those with a liberal economic bent are not going to find much solace in President Nixon's appointment of Alan Greenspan as his newest chairman of the Council of Economic Advisers. Greenspan is an orthodox conservative economist whose ideal is laissez faire capitalism.

Greenspan complements those forces within the administration who are pushing for signficant cuts in federal spending to balance or put the feder. budget into surplus. A good case of fiscal responsibility is needed at the moment to take pressure off the Federal Reserve Board's tight money policy.

The test of Greenspan will be to what extent he will hold to his ideal "do nothing" economic philosophy. He is no fan of the income tax or tax boosts. Would he cut vital social programs in the name of fiscal responsibility rather than advocate a tax increase to balance the budget? To what extent is he willing to let the unemployed become the shock troops of inflation fighting? Would he support emergency manpower programs to ease their plight, as some other of the president's economic advisers have in the past?

As outgoing Chairman Stein and his predecessor, Paul McCracken, know, economist Greenspan is assuming a difficult and thankless job. Greenspan's medicine may be right for today's economic maladies. Getting the patient to take the medicine, however, sometimes is more difficult than prescribing the correct drug. How realistic Greenspan is in his approach will determine his effectiveness.

REFORMING WELFARE

Two recently released reports on the U.S. welfare system drew separate but similar conclusions on flaws in the present method of transferring income to this country's poor. While analysis of problems does not offer instant cure, it could be a productive base for discussion that leads to change.

Both the task force report of the staff of the Department of Health, Education and Welfare and a congressional study of 100 cities, for the Joint Economic Subcommittee on Fiscal Policy, agreed that welfare is inequitably dispersed, discourages self-help, encourages family breakup and is inefficiently administered.

Of concern in both reports were lack of incentives that make it more profitable for people to work than not work; help for the working poor whose incomes are sometimes less than those of welfare recipients; differences between those whose low skills keep them from getting jobs and those who are unemployed because there is no work; whether some people, such as mothers of young children, are doing essential work in caring for their families and should not be compelled to take jobs; that people who know how to "work the system" manage very well on welfare, and others who are entitled to benefits receive none; that, rather than stabilizing families, welfare may allow economic security only when a marriage is dissolved or the father abandons.

There are wide differences of opinion in Congress and within the administration on how welfare reform should be accomplished—whether through the existing multiprogram system that is already evolving through such programs as Medicaid, Supplemental Security Income, food stamps and others, or with a single program of incremental reforms that include wage rate or earning supplements, negative income tax, minimum guaranteed income or some other form of subsidy.

The HEW report does a good job of defining the alternative methods for transferring income to the poor and explaining the conflicts and tradeoffs of each. It is a good point from which Congress, with a parallel view of the problem, and the administration can proceed on reform.

HOW TO MOBILIZE AGAINST INFLATION

Mr. JAVITS. Mr. President, I was very pleased to read the Time essay of July 29, 1974, entitled "How to Mobilize Against Inflation." Some of the suggestions made in the essay for dealing with inflation are suggestions that I have put forward recently, most notably in legislation I introduced last week to establish an Economic Review Board to monitor wages and prices and carry out other important activities to restrain inflationary impulses in the economy. My bill would also establish regional and industry productivity councils to improve productivity.

The Time essay is particularly important because without my accepting all its points it does make it clear that a number of different policy instruments are required; and that reliance on the Federal Reserve Board alone is an inadequate response by the Government. The essay recognizes that fiscal and monetary restraint by the Government will cause severe strains on the economy, and will thus require special measures to deal with unemployment, such as my Emergency Energy Employment Assistance Act, which would provide up to 500,000 public service jobs.

It is equally clear that a wage-price monitoring agency is urgently required, and the Economic Review Board which I have proposed would properly fulfill this function. I have frequently noted the alarming decline in productivity occurring in our economy, and have proposed a series of measures to focus public attention of the need and means for increasing productivity. I note that this point is also stressed in the Time essay, as well as some interesting suggestions for keying extra tax credit to increases in productivity. The essay is also right in calling for the abolition of a series of outdated laws and practices that inhibit the smooth functioning of the economy.

Lastly, I have repeatedly urged concerted action by the developed countries to deal with inflation and in particular the shocks caused by the transfer of resources from the oil-consuming countries to the oil-producing countries. At a minimum, central bankers must agree to maintain the credit-worthiness of their banking systems and to develop mechanisms effectively to recycle the huge revenues accruing to the major oil-producing countries.

None of these policies alone will break the back of inflation, but taken together they represent a core of policies which will start the process and can and should win the acceptance of the American people.

It is fortunate that a magazine as influential as Time sees the problems clearly and does its part to focus public

attention on the problems of inflation and what must be done to control it.

Mr. President, I ask unanimous consent that the Time essay of July 29, 1974, was ordered to be printed in the RECORD,

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

HOW TO MOBILIZE AGAINST INFLATION

(By George Church)

Inflation may be becoming to the 1970s what depression was to the 1930s—not only an economic agony but a crisis that threatens the stability of society. Like the Great Depression four decades ago, today's Great Inflation has struck a blow at Americans' usual optimism about the future and replaced it with a deep worry—about whether families will be able to afford travel, comfortable housing, quality education for their children, even the foods they like best.

Millions of people justifiably feel that the economy is cheating them of the rewards of hard work and thrift. A few more years of skyrocketing prices that wipe out much of the middle class and reduce some Americans to eating dog food could well cause many voters to question whether a system so fundamentally flawed can endure.

The public demoralization is being vastly increased by a gnawing fear that no one knows how to stop inflation in a modern democratic capitalist economy. The Government swings erratically from price controls to a free market, from budget stimulation to budget cutting, from easy money to tight money; nothing seems to work for long. Economists discussing anti-inflation strategy have rarely been so modest and tentative; several seem confident only in proclaiming that their colleagues' ideas will not work.

Modesty is advisable; inflation is in fact the most torturingly complex problem of modern economics. It seems inextricably bound up with growth and high employment; a quick and sure solution might be achieved by inducing another depression—but that would be too severe a cure. Moreover, inflation has become a worldwide plague (Time cover, April 8). The U.S., even if it can control the economic sickness within its own borders, might be subject to reinfection from abroad.

But if no quick, final cure is in sight, the Government still has an obligation to act. The economy, to be sure, is not completely manageable by Washington, but there are a number of policy actions that could be taken to greatly reduce inflation's severity. And in dealing with inflation, degree is crucial; the difference between price increases at annual rates of, say, 6% and 12% is the difference between excessive social drinking and incapacitating alcoholism.

The steps are slow-working and painful. Worse, they sound like a prescription for ensuring the defeat of any President who tries them, since they amount to taking on every vested interest in the economy at once. So there will be a strong temptation to avoid them and hope that a recent downturn in inflation—from an annual rate of 12.3% in the first quarter to 8.8% in the second—continues on its own. But that improvement is scarcely satisfactory; the Government must do all it can to bring the rate down further.

The first essential is to hold down federal spending and reduce the rate of increase in the U.S. money supply. That classic remedy for inflation has been advocated so often that Administration officials refer to it as "the old-time religion." It means slow growth, sluggish profits, distressing unemployment. So it is not surprising that the old-time religion has been more often preached than followed.

Right now, the Federal Reserve Board is acting the role of zealous convert. In 1972 and early 1973 it pumped out enough money to overstimulate a booming economy; money supply in the last quarter of 1972 grew at a startling annual rate of 8.4%. Lately the board has held the increase to a rate of about 6%, a growth much slower than the explosive—and inflationary—surge in demand for business loans. Interest rates have consequently gone into orbit. But as Alan Greenspan, who is Nixon's choice to become head of the Council of Economic Advisers, has pointed out, that policy has been pushed close to the point at which it will self-destruct. Savings and loan associations and savings banks cannot effectively compete with commercial banks for funds in the tight money market, and some may soon teeter on the edge of collapse. If so, the Federal Reserve would have to come to their rescue as "lender of last resort"—and that would mean another massive, inflationary increase in the money supply. The Federal Reserve, in other words, cannot fight inflation all by itself; it needs help from Administration budget makers—who, while preaching fiscal conservatism, have run up a cumulative deficit of $68 billion in five years.

Federal Reserve Chairman Arthur Burns called last week for a $10 billion cut in Government spending for fiscal 1975, which is budgeted at $305 billion, *v.* $270 billion in the last fiscal year. President Nixon himself has said that expenditures should be held to $300 billion, at which point they might just be balanced by growing revenues, but he has postponed the hard decisions about where to cut. Small wonder. The choice will have to be made from a herd of sacred cows: military spending, veterans' benefits, revenue-sharing aid to states and cities.

The size and specifics of any cut in this year's budget are less important than that the Administration, the Federal Reserve and Congress all determine to apply fiscal-monetary restraint for as long as is necessary. The policy need not be pressed hard enough to cause a recession. Rather, the strategy should be to permit some real growth, but keep the budget and monetary brakes on hard enough to hold total demand for several years slightly below the economy's capacity to increase the output of goods and services, until the inflationary momentum at last subsides.

Such a hold-down would set up severe strains in the economy, which the Government must be prepared to ease. For one thing, credit would remain scarce and costly, especially for small businessmen and home buyers. To prevent big corporations from gobbling up all the loan money, the Government would have to nag bankers to turn down some loans and perhaps institute credit controls if they refused.

A long-term program of holding down demand would mean that for years the nation could not reduce the jobless rate to the 4% "full employment" level; unemployment might well rise beyond the present 5.2%. The unemployed, of course, cannot be callously written off—but heating up the whole economy to the point at which employers are eager to hire everyone who turns up is at present a sure prescription for accelerating inflation. Instead, the jobless should be helped by higher unemployment benefits, public-service employment programs, massive job-training efforts to give them marketable skills—and the budget should be cut in other places to provide the money.

Even a consistently pursued policy of fiscal and monetry restraint, however, would not defeat inflation by itself. It should be reinforced by an array of other policies, all of which should be put into effect together. No one of these policies is likely to have much impact on its own, but cumulatively they could put a substantial dent in the inflation rate.

For one thing, the President—possibly acting through a revived Cost of Living Council—should monitor wage-price increases in key industries with a baleful eye and demand from Congress stand-by authority to roll back those that are far out of line. Even liberal economists are generally reluctant to go back to comprehensive wage-price controls. But in a highly inflationary climate, the Government must try to counter the temptation for unions and companies to push for the biggest increases that their raw economic power would temporarily command. Indeed, many economists fear that high wage demands are about to replace shortages as the prime inflationary force in the economy and the Government cannot persuade labor leaders to moderate them unless it makes a conscientious effort to restrain business too. The President, as wielder of the nation's largest jawbone, should define what wage and price behavior is responsible and focus public opinion pressure against increases that violate the guidelines. In order to assure that he is listened to, he needs the authority to order occasional rollbacks.

A resurrected Cost of Living Council or some other body should also monitor the Government's own price behavior. As economists tirelessly point out, Government departments and regulatory agencies, in an effort to please narrow constituencies, often adopt policies that spur rather than slow inflation. For example, the Agriculture Department is now buying up $100 million worth of "excess" beef and pork in a deliberate effort to keep prices paid to farmers and feed-lot operators from dropping. Federal regulatory agencies often set railroad, truck and barge freight rates high enough to protect the most inefficient carriers from competitive damage. A separate federal agency should be empowered specifically to watch for such practices and try to get them stopped.

The Government should also explore all possible ways to increase the productivity, or output per man-hour, of the nation's work force. High productivity enables employers to grant wage increases without raising prices, but U.S. productivity fell at an annual rate of 5.5% in this year's first quarter.

As a first step toward reversing that trend, Congress should legislate extra tax credits for companies that have superior productivity records. The tax credit now granted on the purchase of new equipment, says Michael Evans, president of Chase Econometric Associates, a subsidiary of Chase Manhattan Corp., "is too broad-based. It gives the same 7% for everything from office furniture to industrial machines. It could be more stratified; it could give more emphasis to productivity." The President, by jawboning through the Department of Labor and Federal Mediation and Conciliation Service, should also press for more labor-management agreements that phase out featherbedding and other make-work practices.

Finally, the Administration should ask Congress to wipe off the books a complex of outdated laws and practices that keep prices high for the benefit of special constituencies. Every economist has a long list of these that has turned yellow with age. Among them: the Davis-Bacon Act, which guarantees that construction workers on federal projects receive the often inflationary prevailing wage in the area where they work. The Jones Act prevents shippers from using low-cost foreign vessels to haul their goods from one U.S. port to another, and the "Buy American" Act forbids the Government to buy from foreign suppliers unless their bids are at least 6% below those of U.S. companies. Quotas still hold down imports of foreign textiles, steel and butter. Misnamed Fair Trade laws in 15 states, authorized by a federal enabling act, prevent retailers from cutting prices on many brand-named goods.

The key to getting rid of these outrageous anomalies is to attack them all at once by putting together something like an "Omnibus Inflation Control Bill of 1974" that could win broad public support. Trying to repeal them one by one is no use; the only people who would be excited would be the lobbyists for the special interests involved.

Even if the Government does everything it can to contain inflation within the U.S., though, there will still be that danger of imported inflation from abroad. American prices for many key raw materials—oil, wheat, lead, sugar—are heavily influenced, if not dictated, by the world supply-demand balance. All have zoomed in the past year or so because of global shortages, real or engineered. Restraining demand in the U.S. may not be enough to keep prices down—especially if other industrialized countries stimulate their economies to make up for a loss of export sales to the U.S. and commodity-producing nations form more price-raising cartels modeled after the Organization of Petroleum Exporting Countries.

To counter that threat, the U.S. must take the lead in organizing international cooperation against inflation. As a start, it should try to win at least an informal agreement among the leading financial powers to synchronize their monetary and fiscal policies. The goal should be world restraint to combat world inflation. Further, the U.S. should attempt to reduce the frenzy of international bidding for scarce commodities by forming a world organization that would improve forecasting of global supply and demand. And the State Department should push harder to form an organization of petroleum-importing countries that could beragain with Arab leaders for lower prices.

This program contains something to offend almost everyone: liberals and conservatives; businessmen, workers and farmers; and several departments of the Government itself. Whether Persident Nixon, facing impeachment, can put such a program across, is all too obviously doubtful. The more important question might be whether any U.S. Administration could summon the courage to launch this kind of all-out attack on inflation. It would succeed only if the public could be persuaded that all parts of society—the businessman jawboned out of price increases, the worker asked to settle for a modest wage increase, the banker told not to make certain loans—were being asked to make equitable sacrifices. The only answer is that the risks of not doing so are even greater. For the Nixon, Ford or any other Administration that might be in power—and for the nation as a whole—there is no deadlier danger than continued raging inflation.

JUVENILE JUSTICE AND DELINQUENCY PREVENTION ACT

Mr. HUMPHREY. Mr. President, on July 25, the Senate passed what I believe to be one of the most important proposals to come before the 93d Congress. The Juvenile Justice and Delinquency Prevention Act will provide the organizational framework and the dedication of substantial funds to undertake vigorous federally coordinated programs to combat juvenile delinquency and, more importantly, to study and institute programs for the prevention of delinquency.

Mr. President, there is a pressing need for enlightened policies which cannot only reduce the incidence of juvenile criminality, but develop the kind of approach which can help to keep young people from going afoul of the law. According to statistics cited by the Judiciary Committee in its report on the bill, juveniles under 18 years of age are responsible for 51 percent of the total arrests for property crimes, 23 percent for violent crimes, and 45 percent for all serious crime. Juvenile arrests for violent crimes have increased a staggering 216 percent since 1960. The statistics are there, Mr. President, and they are very telling. Moreover, the committee reported that the recidivism rates for juveniles range from 60 to 75 percent and upwards. This leaves no doubt as to the the inadequacy of current rehabilitation programs.

I am pleased to say that I cosponsored this legislation, S. 821, and the substitute amendment number 1578, as well as simlar legislation introduced in the 92d Congress by my distinguished colleague from Indiana (Mr. BAYH), whose efforts in the field of juvenile justice have been tireless and grounded in a determination to do better by our young people.

S. 821, introduced on February 8, 1973, called for the creation of an office in the Executive Office of the President to administer the programs provided for in the bill. The Subcommittee to Investigate Juvenile Delinquency, which is chaired so ably by Mr. BAYH, reported the bill with the administration to be carried out by the Department of Health, Education, and Welfare, as provided by a similar House-passed bill, H.R. 15276, which proposes creation of a Juvenile Delinquency Prevention Administration within HEW.

The substitute proposal offered by Senators BAYH, HRUSKA, and a bipartisan group of Senators, places administrative responsibility in a new Juvenile Justice and Delinquency Prevention Office in the Law Enforcement Assistance Administration, headed by an Assistant Administrator of LEAA. While this represents a basic departure from the original intent of the legislation, I believe it will accomplish the vital objectives of coordinating a substantially more vigorous Federal effort to come to grips with this growing problem.

The bill emphasizes the necessity to create a partnership between government at all levels and the private sector, by mandating that 20 percent of the funds authorized shall be made available to private, nonprofit organizations and agencies with experience in working with juvenile delinquency. In addition, under the terms of the legislation, the private sector will be represented on the State planning agencies which have responsibility for outlining law enforcement programs which affect juveniles; on regional planning units in the States; and on advisory groups to the State planning agencies which are appointed by the Governors of the States.

A crucial aspect of the bill, and one which indicates clearly the intention of Congress to come to grips with this problem, is the funding which is authorized for fiscal years 1975 and 1976. The bill passed last Thursday requires that LEAA maintain the level of expenditures reflected in its working budget for fiscal year 1972—$140 million—as well as the amounts authorized by this legislation, $75 million for fiscal 1975 and $150 million for fiscal 1976.

Title V of the substitute proposal accepted by the Senate establishes a National Institute for Juvenile Justice within the Juvenile Justice and Delinquency Prevention Office. This Institute will operate as an information bank and clearinghouse to collect, prepare and distribute information relating to juvenile delinquency. The Institute will be authorized to conduct research and evaluation into juvenile delinquency and to encourage the establishment of demonstration projects in innovative techniques with respect to the treatment and prevention of juvenile delinquency.

In addition, the Institute will be authorized to undertake training programs and workshops for professional, paraprofessional, volunteer personnel and others involved in activities related to juvenile delinquency. The Institute will be required annually to review and assess the programs undertaken and to report its results and recommendations to the President and to Congress.

It is important to note that the bill prohibits the disclosure or transferral of material gathered by the Institute for research and evaluation purposes. This is intended to assure the privacy and protection of those juveniles who might be involved in programs carried out by the Institute.

Title II of the substitute contains several amendments to the Federal Juvenile Delinquency Act to assure that the constitutional and procedural rights of youngsters under Federal jurisdiction are protected. While the number of young people who come under the jurisdiction of Federal authorities is relatively small, the authors of the bill believe, as do I, Mr. President, that in the case of juveniles, as in other matters pertaining to the administration of justice, the Federal Government needs to set a worthy example for guaranteeing that individual rights are guarded.

These are important provisions, and I believe that they will have a definite impact on the treatment which can be expected by juvenile offenders in our court and corrections systems.

Mr. President, a number of my colleagues and I have resisted efforts to place the Administration of these programs in the Law Enforcement Assistance Administration. We believe that the treatment and, especially, the prevention of juvenile delinquency is in the realm of human development rather than strictly law enforcement. But the substitute proposal developed by my distinguished colleagues will assure that the focus of the programs carried out by the States and localities under the auspices of the LEAA will be on the preventive aspects of juvenile delinquency, in keeping with the spirit of the original legislation. The bill requires that 75 percent of the State funds authorized to be appropriated, be expended for prevention. Every effort will be made to keep juveniles out of the corrections system, by utilizing community-based facilities wherever possible, by instituting counseling programs, and, very importantly, by requiring the development of advanced techniques which might move us toward a more enlightened approach to juvenile crime.

I hope that the House and Senate managers will be able to reconcile the

differences between the two versions of this proposal so that we may move expeditiously to undertake the important tasks which lie ahead.

THE FLOW OF POWER

Mr. BROCK. Mr. President, when the Budget Reform Act was signed into law, a major victory was won in our continuing struggle for a more democratic government. Our Nation's citizens will again have a voice in how their money is spent.

James J. Kilpatrick sees it as a major change in the channels of power within our Federal Government. In an article in Nation's Business, he analyzes our Government and its "flow of power" since the Constitution's ratification. He sees the Budget Reform Act as a way to "reverse the trend toward a stronger President" and return to our Founding Fathers' principle of "shared power."

Mr. President, I introduced this bill 2 years ago, and my feelings concur exactly with those of Mr. Kilpatrick. I recommend this article to my colleagues, and ask unanimous consent for this article to be printed in the RECORD.

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

THE FLOW OF POWER

(By James J. Kilpatrick)

A reporter who spends his life covering government, at any level from the courthouse to the White House, eventually discovers this truth: The name of the game is power. Political struggles and legislative battles may well involve high-minded notions of the public good, but even in the noblest experiments, the issues finally are resolved in terms of power—how power is won, or lost, or regained, or held, or exercised or restrained.

On the afternoon of Friday, March 22, when the Senate voted 80–0 in favor of the "Congressional Budget Act," a significant moment was reached in our 20th Century chronicle of power. It is altogether possible that when the Senate bill is reconciled with a similar House bill, a major change will occur in the channels of power within the federal government. The Executive branch will have lost some of its power to the Legislative branch. In theory, at least, we will have moved somewhat closer to the concepts of the Founding Fathers. George Mason and Patrick Henry, one supposes, would be pleased.

These questions of power—and especially of the restraints upon power—were at the very heart of the debates surrounding the writing and the ratification of the Constitution. By 1787, it was clear that the Articles of Confederation were fatally defective. Though the Articles granted some powers to the Congress, and prohibited other powers to the states, the structure created little more than a "firm league of friendship" among the states. The power to tax was so loosely established that the central government became a poor hostage to states with minds of their own.

The new Constitution was intended to remedy these defects. The framers who met at Philadelphia had two purposes. The first was to achieve a new distribution of powers, by which vastly more authority would be lodged in the central government. The second was to make certain that these newly delegated powers could be restrained. Out of their debates, of course, emerged the concept of the three coequal branches, each providing a check upon the others. The Tenth Amendment, so it was thought when it was adopted two years after the Constitution's ratification, provided an additional safeguard against abuse in the continuing concept of federalism: "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people."

These were strokes of political genius. The Constitution reflected a great hope—the hope that power would be exercised wisely. It also reflected an abiding suspicion—the suspicion that power would be exercised badly. The suspicion was greater than the hope. "Free government is founded in jealousy and not in confidence," wrote Thomas Jefferson in the First Kentucky Resolution.

"In questions of power, let no more be heard of confidence in man, but bind him down from michief by the chains of the Constitution!"

For the first 100 years or so, the system worked remarkably well. Presidents occasionally exceeded their authority; Congress now and then abused its power and had to be checked by the Supreme Court; and the Court, for its part, from time to time usurped the legislative and amendatory powers. A rough balance prevailed among the branches of the central government; the states functioned (or declined to function) in the spirit of federalism; and strong private institutions, notably the church and the major political parties, contributed a balance of their own.

In 1913, with ratification of the Sixteenth Amendment, authorizing a federal income tax, the central government's powers were dramatically expanded. Two months later, the Seventeenth Amendment, guaranteeing the popular election of Senators, weakened the powers of the state legislatures. By 1920, a once-agrarian society had become predominately urban. With the election of Franklin Delano Roosevelt in 1932, profound changes tumbled upon one another, and these were mainly changes in power—shifts of power from the states to the federal government, and from the Congress to the President within the federal government. The process continued, swiftly accelerating, in the years after World War II.

The business community scarcely needs to be reminded of what has happened in the period as a whole—Social Security, minimum wages, equal employment opportunities, occupational safety legislation, environmental controls, consumer protection legislation—the list is endless. New executive agencies have sprouted like dandelions; they have spread like chickweed. The Constitution intended that "all" legislative powers should be vested in the Congress, but the rule-making authority of the executive agencies has gravely impaired that provision.

A hundred other factors also contributed to the Senate's recent vote on the Congressional Budget Act. In theory, Congress is supposed to control the power of the purse. In practice, that power has been exercised by successive Presidents through the budget-making process. The key committees of House and Senate have seldom acted; they have reacted. They receive a President's recommendations every January, but the recommendations amount to a *fait accompli*. In the $304 billion budget now pending for fiscal '75, at least three fourths of the spending is uncontrollable and untouchable.

There was a time when liberals applauded this situation. The Rooseveltian Brain Trust of New Deal days developed the doctrine of "the strong President." Intellectuals of the New Frontier made the doctrine an article of faith. Arthur Schlesinger Jr., one of the principal architects of this structure, recently reexamined what he and others had wrought. He termed it the imperial" Presidency.

Sen. George McGovern spoke to the altered relationship in an address at Oxford University in January, 1973. The Presidency, he said, was becoming "an elective dictatorship." Liberty, he said, "is the real loser when so much authority is vested in a single office." Two months earlier Sen. McGovern had lost in a landslide to Richard Nixon, but at Oxford he was speaking not as a defeated candidate but as a onetime professor of political science and a practicing liberal: "Now is the time for a determined effort to change, not the person in the White House, but the power of the Presidency. American liberals must reverse the 40-year trend toward a stronger President and return to the 200-year-old tradition of shared power."

That is precisely what the Congressional Budget Act is intended to promote. The product of months of labor by both the House and Senate this major reform would increase the capability of Congress to act independently and intelligently upon the budget. Under this Act, Congress would have its own Office of the Budget. New committees would provide an overview of revenues and expenditures. By changing the fiscal year, so that it would begin in October instead of July, the Congress would gain needed time to act efficiently upon new programs and continuing appropriations.

This correspondent has been covering government for too many years to wax lyrical about any reform. The Senate bill is not as strong as many of us on the conservative side had hoped for. A key "trigger" provision, which would have enforced a ceiling upon appropriations, was abandoned in committee and killed 57–23 on the floor. Virginia's Sen. Harry F. Byrd Jr. got nowhere in an effort to compel submission of annually balanced budgets. A final version of this legislation, combining House and Senate provisions, is not likely to impose any effective restraint upon "backdoor" spending. The jealousy of powerful committee chairmen may yet undermine the authority of the new budget committees.

When all these reservations have been expressed, a hopeful view should be expressed. It is manifestly impossible for a Congress of 535 members to exercise day-by-day supervision of the sprawling federal government. Given our complex and highly urbanized society, it is perhaps inevitable that a vast bureaucracy should have come into being. Even with Mr. Nixon's "New Federalism," by which greater decision-making power would be restored to States and localities, there is no way in which the federal government can be greatly reduced. On the contrary, the prospect—a dismaying prospect in my view—is that such new programs as national health insurance and no-fault auto insurance will further expand the federal power.

But it is possible to whittle down the awesome authority exercised in recent years by the President of the United States. No thinking person wants a weak office. The object should not be to cripple future Presidents, or to make them incapable of executing the laws. The object should be simply to get us back toward the point of beginning—toward the inspired concept of co-equal branches in a structure based upon federalism.

If the Congressional Budget Act is viewed in that spirit, and if the Act can be strengthened after an experimental period, we will move in that direction. Presidents, as always, will propose, but for the first time in recent memory, Congress will in fact dispose. Using his veto power, a President can strive to restrain Congressional impulse. Using the power to override, the House and Senate can squelch monarchical notions.

Sen. Sam J. Ervin, of North Carolina, a leader of the troops on the Senate side, is not

a man ordinarily given to understatement. But when he described the bill in floor debate as "the most important legislation that Congress will consider this year," he was yielding too much to his innate conservatism. If the Congressional Budget Act succeeds in reversing a flow of power that has surged toward the White House for 40 years, it could prove to be the most important legislation—in terms of political power—since the Budget and Accounting Act of 1921. And power, as I remarked some 1,500 words ago, remains the name of the game.

INSTALLATION OF BISHOP JAMES A. HICKEY AND THE RETIREMENT OF BISHOP CLARENCE G. ISSENMANN OF CLEVELAND

Mr. METZENBAUM. Mr. President, a signal event in the life of the Catholic Church in Ohio occurred last week when James Aloysius Hickey, a man of extraordinary ability, was installed as Bishop of the Diocese of Cleveland.

Bishop Hickey has had a distinguished career in the church as theologian, administrator, educator, and a man of great compassion and concern. He was rector of the North American College in Rome from 1969 to 1974, and just prior to that, was auxiliary bishop of Saginaw, Mich., for 2 years. He attended St. Joseph Seminary in Grand Rapids, Mich., studied philosophy at Detroit Sacred Heart Seminary, and theology at Catholic University of America here in Washington, D.C. In Rome he earned the Doctorate of Canon Law at Pontifical Lateran University and the Doctorate of Sacred Theology at the Angelicum University.

In his early career in the church, Bishop Hickey worked closely with Spanish-speaking migrants. He retains a strong identification with that culture, and a determined commitment to end the kind of deprivation and poverty he fought against there.

Bishop Hickey himself expressed this commitment eloquently during his installation by quoting from a letter he received from a Catholic lay group, who wrote:

We cannot effectively serve the needs of the poor unless we have your example and your leadership.

To which Bishop Hickey responded:

How better can I describe my work as teacher, high priest, father and shepherd in this community of the faith?

I welcome the strong and progressive leadership which Bishop Hickey will bring to the Diocese of Cleveland.

Let me say also that I regret, with equal feeling, the departure of my great and good friend, Bishop Clarence Issenmann, the retiring Bishop of Cleveland. Bishop Issenmann was a native of Ohio. He taught theology at Mount St. Mary Seminary in Cincinnati, and served successively as treasurer, chancellor, and vicar general in the Cincinnati archdiocese. In 1954, he became an auxiliary bishop of Cincinnati, in 1957, bishop of Columbus, Ohio, and in 1966, bishop of Cleveland.

My relationship with Bishop Issenmann spans many years. On dozens of occasions we found ourselves allied together in struggles on behalf of working people and minorities in Ohio. One of the proudest moments in my career occurred in 1966 when Bishop Issenmann presented me with the first Interracial Justice Award ever awarded to a non-Catholic by the Catholic Interracial Council of Cleveland.

All of Ohio will miss the warmth and humanity of Bishop Issenmann, and we are exceptionally fortunate to have a man of the ability of Bishop Hickey as his successor.

THE EARNED IMMUNITY ACT

Mr. TAFT. Mr. President, recently, the American Bar Association, section of individual rights and responsibilities, voted to submit a report and recommendation regarding the Earned Immunity Act of 1974, of which I am the sponsor, to the ABA House of Delegates. This committee has devoted a good deal of time and scholarly effort in studying this very important issue. As a result of the fine efforts of this section, the recommendation will be made that the American Bar Association support in principle the passage of S. 2832.

I ask unanimous consent that a copy of the report and recommendation be printed in the RECORD.

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

[American Bar Association Report to the House of Delegates]

SECTION OF INDIVIDUAL RIGHTS AND RESPONSIBILITIES

RECOMMENDATION

The Section of Individual Rights and Responsibilities recommends adoption of the following:

Be it resolved, that the American Bar Association supports in principle the passage of Senate Bill 2832, the Earned Immunity Act of 1974 and H.R. 13001, an identical bill introduced in the House of Representatives. This proposed legislation provides persons who unlawfully avoided military service, with an opportunity to earn immunity from prosecution and punishment.

Be it further resolved, that the President or his designee is authorized to present the substance of the foregoing resolution to appropriate committees of Congress.

REPORT

I. The Purpose of Earned Immunity Legislation Merits the ABA's Support.

Earned Immunity from prosecution for draft resistance, commonly referred to as earned or conditional amnesty, is a critical national problem. It concerns the lives of nearly 30,000[1] young men who have evaded the draft and who are now living in Canada or other countries, or are "living underground" in the United States. Many of these young men continue to lead tragic lives as a result of their separation from their families and their homeland. Some have not returned to their homes and families for fear of prosecution for the crime of draft resistance.

Now is the time for the American Bar Association to support legislation directed at alleviating this problem. This legislation is directed toward those who have resisted the draft. Many of these draft resisters have been victims of bad judgment and poor advice. Others, however, have acted out of deep personal objection to the cause which our country followed as the United States became involved in the Viet Nam War. Now is the appropriate time to question whether we will offer these young men an opportunity to become productive citizens in their country or force them to remain abroad or underground. We must question whether it is more in the interest of justice to have them spend up to three years in jail or an indeterminate period in exile rather than to have them earn immunity through some type of alternative service to their country. Now that American involvement in the shooting war in Viet Nam has ended, it is appropriate for the ABA to support legislation offering these draft resisters an opportunity to rejoin their fellow citizens in a manner that allows them to earn immunity from prosecution for draft resistance by providing some type of alternative service to their country.

In regard to those young men who resisted the draft as a result of their convictions, it is worth noting that because of the change in the law regarding conscientious objectors it is possible that two brothers from the same family with the same conscientious objections to the war in Viet Nam may have been classified differently for purposes of the Selective Service Law. Under a peculiarity of the law the elder of the two may be subject to prosecution, but the younger of the two may have been relieved of his obligation to serve in the military because of his conscientiously held beliefs. The Supreme Court during the Viet Nam War period, gradually broadened its definition of conscientious objection, justifying exemption from service in the Armed Forces. See *Welsh* v. *The United States*, 398 U.S. 333 decided on June 15, 1970. Before that decision, individuals seeking conscientious objector status had to raise their objection in relation to their belief in a Supreme Being. The Supreme Court, in *Welsh*, ruled that belief in a Supreme Being was no longer required, and that other deep-felt views could suffice to justify receipt of the conscientious objector status. Obvious inequities have become evident, such as the example cited above where the elder of two brothers may be subject to prosecution for resisting the draft to abide by his conscience while the younger obtained conscientious objector status.

Also there are many individuals who were motivated *solely by conscience* in resisting the draft during the Viet Nam War period although their beliefs did not legally qualify them for conscientious objector status. Under *Gillette* v. *United States*, 401 U.S. 431 (1971), the Supreme Court held that selective opposition to the Viet Nam War did not justify the conferral of conscientious objector status on a young man who was otherwise subject to the draft. Nevertheless, it is clear that many young men who resisited the draft because of selective objection to the Viet Nam War did so because of their conscientiously held beliefs.

Enforcement of the Selective Service Laws has created its own set of problems. For example, many draft resisters have not been prosecuted in the past if they agreed to enlist in the Armed Services. This approach had been the policy of the Justice and Defense Departments before the expiration of the draft. In this regard, let us review a July 23, 1973 letter of Assistant Attorney General Henry Peterson, Head of the Criminal Division, Department of Justice, to Senator Robert Taft. Mr. Peterson says as follows:

[1] The exact number of such persons is in dispute. Staff analysis by aides to Senator Robert Taft, lead to the estimate that at least 18,500 individuals were abroad because of resistance to the draft. As of July 23, 1973, the Department of Justice reported that another 1,351 persons were indicted and awaiting trial and 300 men were imprisoned. No one knows how many are living "underground" in the United States. But the most conservative estimate is about 10,000. In sum about 30,000 men are affected by this proposed legislation.

"It was our policy to allow such a man, in the absence of aggravating circumstances, to remove his delinquency under the Military Selective Service Act by submitting to the dismissal of his indictment upon successful completion of induction. That policy was terminated on July 1, 1973, because of the expiration of the induction authority on that date. In our view, that policy was beneficial to all concerned for the reason that the inductee would rather render valuable service to our country for a period of 24 months and he would have the satisfaction of having fulfilled his service obligations. On the other hand, men convicted and sentenced for violation of the Act perform no worthwhile service of any kind, and in most instances were permitted to return to their normal way of life in considerably shorter periods of time. For example, in fiscal year 1972, the average term of imprisonment imposed for draft law violations was 36.2 months; however, the average actual time served in custody was 9.1 months. Moreover, 1,178 of the 1,643 defendants convicted were placed on probation by the courts, with the result that less than ⅓ of the men convicted received a prison sentence."

Mr. Peterson continued by explaining that this policy had to be dropped at the insistence of the Defense Department. Thus, all draft resisters are now subject to prosecution:

"Subsequent to July 1, 1973, it was our policy to inform a draft delinquent prior to indictment that he was in violation of the law and prospective action against him was contemplated unless he were willing to correct his delinquency by enlisting in the United States Army. In that event, consideration would then be given to permitting him to purge his violation without being subjected to criminal charges. That policy has been abandoned, however, because the Department of Defense advised us that it would not accept for enlistment men who are in violation of the draft law, whether under indictment or not. We were recently informed that the enlistment policy was reconsidered, at our request, within the Department of Defense and by the Secretary of Defense, but it was concluded that it should continue in effect. Since that decision could place substantial prosecutive burden on United States attorneys throughout the country, as they no longer have a viable alternative to offer the defendants other than prosecution, we are again asking the Department of Defense to reconsider this matter."

This situation raises the problem of unequal prosecution in different districts and a heavy burden on United States attorneys. Senator Taft reports[2] that statistics from the 1973 semi-annual report of the Director of the Administrative Office of the United States Courts would indicate that this burden on the Justice Department has been translated into a very uneven approach to prosecution so that the disposition of an accused often depends on the geographical region of the country in which he is prosecuted. For example, during Fiscal Year 1972 only one of Ohio's 218 defendants in Selective Service cases served a prison sentence compared to Minnesota's record of 47 prison sentences out of a total of 141 defendants with 94 convictions. Finally, many prominent Americans, including former Secretary of Defense Melvin Laird who bore the responsibility of the entire Defense establishment during a critical period of the Viet Nam conflict, have supported earned immunity. In a letter to Commander Ray R. Soden, Veterans of Foreign Wars of the United States, Secretary Laird said:

"Throughout my career of public service, I have learned to avoid absolute, dogmatic positions. Neither the political system nor the judicial system of the United States works on 'blanket' and arbitrary approaches. Both recognize the vital roles of (1) circumstances and (2) motivation in determining political or judicial solutions to our problems. As I have stated, we pride ourselves on administering justice with mercy and understanding. . . . *It is my view that circumstance and motivation on a case-by-case basis, under our concept of justice, must be taken into account today when dealing with violators of our selective service laws.* It is noteworthy that only a small percentage of these men have thus far been prosecuted by widely differing penalties have been assigned to individuals varying by jurisdiction." (Emphasis added.)

II. Congress Has Authority to Legislate Immunity From Prosecution for Draft Resistance

Congress has authority to legislate immunity from prosecution for draft resistance. Congress has done so in the past and can do so again. For example, in 1865, Congress directed the President to issue a proclamation announcing a pardon for all deserters who returned to their posts within 60 days. (Act, of March 3, 1865, 13 Stat. 190–191. For a similar use of the legislative pardon power see Act of June 17, 1862, 12 Stat. 592.) This legislative power of immunity has also been exercised numerous times when it has been considered necessary to obtain testimony in connection with criminal investigations. The constitutionality of this legislative exercise was upheld by the Supreme Court in *Brown* v. *Walker*, 161 U.S. 591 (1896). See also *The Laura*, 114 U.S. 411 (1884).

The responsibility to determine which person should be granted this immunity has been placed by legislation in Federal agencies, prosecutors, and Congressional committees. See, for example, the "Use" Immunity Provisions of the Organized Crime Control Act of 1970, 18 U.S.C. ss 6001–6005. *Kastigar* v. *United States*, 406 U.S. 441 (1972) upheld these provisions.

Congress also has the undisputed power to modify the terms and conditions of judicial sanctions imposed on those convicted of crimes. This authority has been delegated to the Federal Board of Parole, granting that Board broad discretion in determining whether it should mitigate or alter the form of punishment imposed. See 18 U.S.C. ss 4201 and following. The authority exercised by the Board of Parole is probably the most common use of Congress' power to legislate immunity.

While the question has been raised whether Congress has the constitutional authority to enact "amnesty" legislation or whether granting "amnesty" is an exclusively Presidential power, nearly every legal scholar who has addressed this question has concluded that Congress has the constitutional authority to enact such legislation. These scholars are led by Professor Louis Lusky of the Columbia University Law School, who authored "Congressional Amnesty for Resisters: Policy Considerations and Constitutional Problems" 25 Vanderbilt Law Review 525 (1972). Only one statement questions the constitutionality of Congressionally enacted amnesty legislation.

It was made by Leon Ulman,[3] a Deputy Assistant Attorney General in the Office of Legal Counsel, who appeared as the Administration spokesman at a Congressional hearing, apparently expressing an Administration policy as well at its legal position. On the basis of the foregoing, we believe that it is clear that Congress has the authority to enact amnesty legislation.

III. S. 2832 and H.R. 13001 would establish an immunity review board with power to grant immunity in consideration for the performance of national service.

This legislation would be directed at providing relief for persons who are currently subject to criminal prosecution for evading the draft. It would not affect deserters from the Armed Services or persons subject to criminal prosecution for violation of other law. It is concluded that deserters should be treated separately because they are subject to prosecution under a totally separate body of law, the Uniform Code of Military Justice, which is based on unique legal and policy considerations. Further statistics available to Senator Taft indicate that as few as 5% of all deserters during the years 1966–1971 deserted on ideological grounds.[4] Some young men deserted because of trouble with an officer or because they committed a crime on a military base, or because of difficulty with civilian authorities near the base. A blanket amnesty that would include deserters would thus appear to be unfair and to pose the danger of disruption to military discipline.

The Immunity Review Board, to be established by this legislation, would be authorized only to review violations of the Selective Service Act and would be empowered to grant immunity upon the completion of alternative service of up to two years in the Armed Services or in public or private service contributing to the national health, safety, or welfare.

Individuals serving prison sentences for crimes unrelated to Selective Service violations would not be eligible for such immunity, nor would individuals under indictment for any offense unrelated to the Act. Examples of contemplated public service would be two years in the Peace Corps or VISTA, with compensation at a level which provided a standard of living comparable to service in the Armed Services at the lowest pay grade. Other public service permissible could include the various types of duties that were formerly assigned to conscientious objectors.

The Board would not be permitted to deny immunity to any qualified individual, but it would be given discretion regarding the length of alternative service with an upper limit of two years. Each individual case would be reviewed on its own merits, with the Board specifically authorized to consider mitigating circumstances with regard to the service requirements.

For example, S. 2832 sets forth the following six circumstances as mitigating the length of service required:

(1) An inaccurate interpretation of the Selective Service Act by an individual contributing to his having committed the violation.

(2) The applicant could have qualified for classification as a conscientious objector under *Welsh* v. *United States, supra*, but was denied conscientious objector status because he applied for conscientious objector status before *Welsh* was decided.

(3) The applicant's family is in immediate and desperate need of his personal presence.

(4) The applicant lacked mental capacity to have committed the violation of the Selective Service Act.

(5) The applicant has in the past or is currently subject to imprisonment or parole for committing offenses for which he seeks immunity. The Board could give credit for time already served.

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[2] Testimony of Senator Robert Taft in support of S. 2832 before House Judiciary Committee, Subcommittee on Courts, Civil Liberties and the Administration of Justice, March 11, 1974.

[3] Statement of Leon Ulman to the Subcommittee on Courts, Civil Liberties, and the Administration of Justice of Committee for the Judiciary, House of Representatives, March 8, 1974.

[4] See Senator Taft's comments on this subject in 119 Cong. Rec. No. 200 (Dec. 19, 1973).

(6) Such other circumstances as would be consistent with those above.

While S. 2832 makes no provision for judicial review of the type or length of service required by the Board, it is concluded that its judgment should be subject to judicial review within the limitations of the Administrative Procedure Act. Such a provision would thus eliminate even the appearance of arbitrary administrative action.

It should be noted that none of the above listed reasons provides for a reduction of the maximum term of service solely on the basis of the applicant's opposition to the Viet Nam War. Such individuals, while not disqualified from security immunity, could not use that factor as the sole basis for any reduction in term because it has never been the basis for a similar action by any of the draft legislation or regulations. Further, the Supreme Court specifically determined that this was not the basis for refusing induction in *Gillette* v. *United States, supra.*

Accordingly, on the basis of the above report, it is hereby recommended that the American Bar Association support legislation providing for earned immunity from prosecution for those persons who evaded the draft during the period beginning August 4, 1964 and ending January 27, 1973, at which time the United States agreed to withdraw its military forces from the Viet Nam Conflict. It is important that the American Bar Association support this resolution because currently, while several bills are pending before Congress providing for such earned immunity to draft resisters, cognizant Congressional committees have chosen to avoid the issue for fear that many Americans reject the concept of any type of amnesty.

In conformance with Association policy, copies of this report and recommendations have been sent to the following Association entities for their review and comment:

Administrative Law Section, Criminal Justice Section, General Practice Section, Young Lawyers Section, the Law Student Division; Standing Committee on Lawyers in the Armed Forces; Standing Committee on Legislation, Standing Committee on Military Law and the Special Committee on the Administration of Criminal Justice.

The above report and recommendation were approved by a majority of the Council of the Section of Individual Rights and Responsibilities in a telephone poll conducted in June, 1974.

Respectfully submitted

ALBERT E. JENNER, Jr.,
Chairman.

August 1974.

THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, in recent months we have once again been reminded of the need to insure the preservation of individual liberties. Even a cursory examination of the activities of the White House "plumbers" or of other contemporary invasions of the personal affairs of our citizens in the name of national security makes it clear that strong safeguards are needed to protect the individual from the power of government. Our Constitution's Bill of Rights sets forth such safeguards. It is, in fact, our firmest bulwark against the abuse of the weak by the powerful.

The notion that nations could join together to protect fundamental human freedoms is relatively novel. Prior to World War II the idea that states could commit illegal acts against their citizens—and be held accountable for those crimes by the other nations of the world—had not gained any significant international support. But the gas chambers and concentration camps of the Second World War drastically altered the perspectives of the leaders and citizens of nations around the world. International ethical standards now seemed important; numerous treaties were drafted to define actions which no nation or group could take, and which no other nation could permit.

The International Convention on the Prevention and Punishment of the Crime of Genocide is perhaps the most important product of this new perspective in international relations. It is designed to discourage any nation or organization from taking steps to systematically exterminate any national, ethnic, racial, or religious group, and to bind all other countries against any nation that plans or initiates such policies. The accord is, as the Section of Individual Rights and Responsibilities of the American Bar Association concluded in a 1969 report, "an international commitment to decency and morality consistent with the American tradition." As such, it not only deserves, but demands, ratification by this Senate. It is an international initiative of no mean importance, but its largest significance is its grave moral demand upon our collective conscience.

SENATOR NUNN'S NATO MANEUVER

Mr. BROCK. Mr. President, it is not too often today that we hear or read praise for one of our colleagues. I was delighted to read recently an excellent article by Stephen S. Rosenfeld about the distinguished Senator from Georgia, Mr. NUNN. I am very happy that this good notice was published to his work in the field of preserving our defenses. I ask unanimous consent that Mr. Rosenfeld's article be printed in the RECORD.

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

[From the Washington Post, June 21, 1974]

SENATOR NUNN'S NATO MANEUVER

(By Stephen S. Rosenfeld)

Sam Nunn (D-Ga.), 35 years old, not 20 months a United States Senator, saved NATO the other day. His was as solid and deft a parliamentary performance in the national security area as the Congress has seen in years, belying the common notion that a legislator must have seniority or "power" to get something important done.

What Nunn did was to block—and rechannel—a campaign led by Senate Majority Leader Mike Mansfield (D-Mont.) to demobilize 125,000 men out of American ground forces overseas. This was the 1974 model of the now-traditional "Mansfield Amendment" to enact unilateral troop cuts in Europe.

Anticipating this campaign, Armed Services Chairman John C. Stennis (D-Miss.) last February sent the member he has called "last but not least" on his committee, on a study mission to Europe. Nunn, a great-nephew and once a staff aide of the late House Armed Services Chairman Carl Vinson (D-Ga.), occupies the Senate seat—and the Armed Services seat—of the late Richard Russell (D-Ga.). "We have military bases in Georgia," Nunn explains. "People in the South are much more tuned to a military and patriotic spirit than some of the other sections."

A lawyer and four-year state legislator, Nunn recalls putting in 100 hours preparing for his European trip—"getting through the first layer of propaganda." His report, "Policy Troops and the NATO Alliance," though covering an oft-plowed field, nonetheless startled specialists with its freshness and command.

Nunn thinks the Mansfield Amendment approach could produce results—lowering the nuclear threshold, undermining the force-reduction talks—that the country wouldn't like. He concluded his report with a call for the administration and Congress to find together "a long-range NATO stance that we are willing to live with, politically, economically and militarily."

In pursuit of just such a joint long-term stance, Nunn then wrote three amendments to the basic military procurement bill.

Nunn had already, last year, joined with Sen. Henry Jackson (D-Wash.), an acknowledged expert at legislating policy by amendments, to sponsor an amendment requiring the NATO allies to pick up a greater share of the cost of maintaining U.S. troops in Europe or to face a reduction in U.S. troop commitments. That amendment, almost everyone agrees, has been extremely effective, where years of State Department entreaties had not.

The three new amendments were designed to provide a constructive alternative to Mansfield, one answering to the same world-weariness and the same felt need to update American policy but doing so in a way that would not upset negotiations with the Russians or unduly alarm the Allies.

One amendment makes it the sense of Congress that NATO support units (the Alliance's notoriously long "tail") be cut by 20 per cent in two years, the men to be replaced—if the administration chooses—by combat soldiers ("teeth").

The second requires the Pentagon for the first time to justify the numbers and purposes of the outsized and unplanned U.S. force of 7000 "tactical" nuclear warheads in Europe. Sen. Stuart Symington (D-Mo.) had investigated this matter during the year but it took Nunn with his non-threatening Southern manner to move into it legislatively.

The third amendment compels the Pentagon to report on what it's doing to reduce the costs and the loss of combat effectiveness stemming from failure to standardize NATO equipment.

Politically, these amendments have a broad appeal, promising more military efficiency to defense conservatives and greater civilian control and lower-costs to defense liberals. Ideologically, they are neutral. The Armed Services Committee endorsed them unanimously, though House conferees' approval remains uncertain.

In the Senate debate on the Mansfield Amendment the other day, Nunn, who is a pleasant-looking soft-spoken fellow with a drawl, stood right up to the Majority Leader. He was well prepared. He had a folksy Georgia story about a preacher ready for a change of pace. Quite firmly, he managed to steer the whole debate away from the controversial ground of *whether* in general the United States should be doing more or less into the smoother area of *how* specifically we ought to proceed. And, in a word, he won.

When I talked with Nunn about this a few days later he was sure, but self-effacing, pleased with his success while intent on saying nothing that could give umbrage to his Senate brethren. He is not one for debates on great issues. He thinks national security debates can and should be waged on the basis of what is "effective and sensible." "You must be armed with a good bit of background to get down to the quick," he added.

What will Nunn be looking into next? His chairman Stennis wants him to get into personnel, he said—it takes 57 per cent, by

some counts 67 per cent, of the military budget. I found myself thinking: Go, Sam, we're watching.

CASS ELLIOTT

Mr. McGOVERN. Mr. President, I was saddened by the news of the untimely death of Miss Cass Elliott. She was not only a gifted, talented artist, but a sensitive, compassionate human being who cared deeply about the issues of the day.

In the 1972 Presidential campaign, Miss Elliott gave her time and effort generously in assisting my campaign. Eleanor and I remember her contribution with continuing appreciation.

I ask unanimous consent that an article from today's Washington Post be printed in the RECORD.

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

U.S. POP SINGER CASS ELLIOTT DIES IN HER SLEEP AT LONDON

(By Jean R. Hailey)

Pop singer Cass Elliott, 33, who rose to fame as a member of the Mamas and the Papas in the 1960s, died yesterday in London.

The cause of her death was not immediately disclosed. Her manager, Allan Carr, said she died in her sleep in an apartment she had rented in the fashionable Mayfair district of the city.

Miss Elliott, who continued to be known as Mama Cass, although she had worked since 1968 as a solo act on the TV-nightclub circuit, had completed a two-week engagement at the famous London Palladium Saturday. She was scheduled to begin a tour of British nightclubs, Carr said.

The plump entertainer, who was 5-feet-5 and weighed well over 200 pounds, had always had a weight problem and dieted frequently, sometimes very strictly.

She was always frank about being fat and often kidded about it and her dieting.

In an interview with the London Times, published only a day before her death, she said:

"I could eat Chinese food all the time. I've lost 80 pounds in the past year. I'm not really on a diet, but my one rule is don't eat anything white, because they're all fattening things."

"I didn't develop a sense of humor as a defense for being heavy. I've always had a weight problem. I simply learned that's the way I am and so I live with it," she explained on an earlier occasion.

Born Ellen Naomi Cohen in Arlington, Va., Miss Elliott headed for New York and a stage career as a young woman. Conflicting reports say she was born Cassandra Elliott in Baltimore and grew up in Virginia and Maryland.

At any rate, she turned up as Cass Elliott in the Virgin Islands and that is where the Mamas and the Papas group was formed in the early 1960s.

The group eventually returned to this country and Hollywood, where they soon came up with a number of big hits, singing mainly of peace and love. Some of their bigbest hits included "Monday, Monday," "California Dreamin'," "I Saw Her Again" and "Go Where You Wanna Go."

After they broke up in 1968, the other members of the group, Michelle Gilliam, Denny Doherty and John Phillips, faded from the limelight.

That, however, was after the group had made a number of million-selling gold records and had appeared in sellout concerts across the country.

The split was friendly. Miss Elliott decided to go out on her own. Her first appearance was at Caesar's Palace in Las Vegas and it was more or less of a disaster. She was suffering from acute tonsilitis.

Undaunted, Miss Elliott, whose permanent home was in California, continued with nightclub performances and made several hit records of her own, among them "Dream a Little Dream of Me" and "Make Your Own Kind of Loving."

She had remarked after the catastrophe at Las Vegas:

"When you're on your own, you're responsible for yourself. I don't want the stigmata of a Judy Garland type. I don't want people to think that I can't perform because I'm bombed. I don't drink, take drugs, I don't even smoke."

There were some television appearances, including a special, "Don't Call Me Mama Any More," broadcast last September and criticized as disappointing.

In April she was scheduled to appear on the Johnny Carson show in Hollywood but was hospitalized briefly after collapsing before the show. She had been on a strict diet and fainted in her dressing room.

Miss Elliott married musician James Hendricks in 1963 and they had a daughter, Vanessa, in 1967. They were divorced in 1969. In 1972, she married Baron von Weidenman but that marriage was a brief one.

She also is survived by her mother, Bess Cohen, who lives in Maryland, and a brother and sister, who live in Los Angeles.

FINANCIAL ASPECTS OF THE ENERGY SITUATION

Mr. PERCY. Mr. President, crises in the international economy seem to be following each other with such rapidity these days that they are now overlapping and compounding one another. In the latest crisis, the earthquake of last year's oil crisis has violently tilted the formerly stable financial landscape of the industrial nations into a precarious balance-of-payments deficit condition.

This upset condition—and some suggestions for righting it through "recycling" world investments—are discussed in an important speech by David Rockefeller, chairman of the Board of the Chase Manhattan Corp., given before the International Monetary Conference in Williamsburg in June.

Mr. Rockefeller indicates the scope of the problem by noting that—

Total reserves of the oil-producing nations are likely to exceed $70 billion by the end of 1974, $140 billion by 1975 and $200 billion by the end of 1976. These are staggering amounts—and only over a three-year period.

He continues by pointing out that:

These huge surpluses of necessity must be offset by corresponding deficits on the part of oil consumers. The balance of payments deficit of the *developed* countries is projected to increase by $40 billion. The key deficit nations, after adjusting for other balance of payments considerations, will be Italy, the United Kingdom, France, Japan and the Scandinavian countries. My own country will swing from a surplus in its current account, which it had struggled hard to attain, to a deficit once again this year.

The developing nations, for their part, will face a severe increase in their combined deficit of close to $20 billion a year. Countries such as India, Bangladesh and Sri Lanka will have particularly hard times.

Mr. Rockefeller then suggests a number of ways in which these vast reserves from oil income can be recycled back into the economies of both the developed and developing nations. Chief among these is the replenishment of the International Development Association. As Mr. Rockefeller says:

Finally, it is imperative that the developed countries of the world join with the oil producers to assist the less-developed nations. Unless there is a far more concerted effort by all, including my own country, in this direction, I fear that the only result will be economic and political chaos. In this connection, it is imperative that Congress act favorably on the replenishment of the International Development Association as quickly as possible. It has perhaps never been so clear that the true self-interest of any nation depends ultimately on the welfare of others.

Mr. President, I ask that Mr. David Rockefeller's speech be printed in the RECORD in its entirety.

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

FINANCIAL ASPECTS OF THE ENERGY SITUATION

(By David Rockefeller)

When this conference met a year ago, both international monetary reform and the long-range energy problem were discussed. At that time, however, little connection was made between the two.

Certainly none of us foresaw the huge rise in the price of oil which was to come in the final months of the year, or the disruptive impact it was to have on world financial relations. In retrospect, the relevance of Secretary Shultz's speech last year is clearer to most of us now than it was then.

These developments once again illustrate how our best laid plans can often be disrupted by unforeseen external developments—what economists are fond of calling "exogenous variables" and others often call "good excuses!"

Well, what was exogenous yesterday is very much a fact of life today, and it is the subject our panel will discuss with you this afternoon.

For my part, I'll begin by laying out the broad dimensions of the problem, pointing to some of its implications for international financial and political relations, and suggesting what seem to be some promising approaches to solutions. My distinguished associates on the panel will then give us their various perspectives on the situation.

In the final quarter of last year the Organization of Petroleum Exporting Countries (OPEC) increased the price of oil fourfold—a substantially more rapid increase in price than that of other critical commodities. Given these prices and present levels of production, this means they will receive more than $100 billion yearly for their oil exports. Of this $100 billion, the oil-producing nations will spend some $40 billion for goods and services—leaving $60 billion or so as a surplus to be reinvested. This $60 billion surplus, incidentally, compares with a $4 billion surplus by the same countries in 1973.

Taking into consideration existing reserves, and interest and dividends on these massive funds, total reserves of the oil-producing nations are likely to exceed $70 billion by the end of 1974, $140 billion by 1975 and $200 billion by the end of 1976. These are staggering amounts—and only over a three-year period.

The principal holders of these reserves will be in the Gulf Area, with Saudi Arabia, Iran and Kuwait accounting for about one half. Other important reserve holders will be Iraq, Libya and Venezuela. And, of course, Nigeria and Indonesia will also benefit.

These huge surpluses of necessity must be offset by corresponding deficits on the part of oil consumers. The balance of payments deficit of the developed countries is projected

to increase by $40 billion. The key deficit nations, after adjusting for other balance of payments considerations, will be Italy, the United Kingdom, France, Japan and the Scandinavian countries. My own country will swing from a surplus in its curren account, which it had struggled hard to attain, to a deficit once again this year.

The *developing* nations, for their part, will face a severe increase in their combined deficit of close to $20 billion a year. Countries such as India, Bangladesh and Sri Lanka will have particularly hard times.

All of this suggests a structural disequilibrium of major proportions in the balance of payments of countries around the world—one that could have serious implications for the world economy and international financial mechanisms. Somehow, in some manner, the huge surpluses of the oil producers must be recycled back to the deficit oil consumers. As it is, higher prices are having damaging inflationary impacts on the domestic economies of oil consumers. On the other hand, if recycling does not occur, the oil consumers will be forced eventually to deflate their economies with severe consequences of another sort for the Free World.

In considering this recycling problem it is helpful to distinguish between the short run—say the next year to eighteen months—and the longer period. One must also distinguish between three groups of oil consumers: first, the industrial nations; second, developing nations which are in a fairly strong financial position; and third, those developing nations which are in a decidedly weak position.

We already have gained some experience in the short run. The first sizable payments were made by the oil companies to the producer nations in March, April and May, and thus far they have been recycled back successfully—principally through the international banking system.

The oil-producing nations, for example, have been placing their money mainly in the Eurodollar market or in sterling. The banks have been the major recycling vehicles, taking this money on deposit, usually at call or on very short maturity, and relending it to oil-consuming nations for periods of five to seven years—a process which obviously creates a very unbalanced and precarious maturity structure.

So far this year, $12 billion or more has been committed to industrial nations to help cover their 1974 balance of payments deficits. To a considerable extent, the borrowing is being carried out by governments or governmental entities, such as the British railways.

While this process can be successful for a limited period of time, there are at least four very serious shortcomings to it, especially in view of the astronomical amounts that loom ahead.

First, the banks cannot continue indefinitely to take very short-term money and lend it out for long periods of time. We hope that this problem will be alleviated to some extent by countries in the Middle East agreeing to place funds at longer maturity as they become more familiar with the recycling process.

Second, and even more serious than the question of maturities, is the likelihood that banks eventually will reach the limits of prudent credit exposure, especially with regard to countries where it is not clear how present balance of payments problems can be solved.

Third, the oil-producing countries cannot be expected to build up their bank deposits indefinitely. They, too, will soon reach prudent limits for individual banks or even for individual nations.

My own view is that the process of recycling through the banking system may already be close to the end for some countries, and in general it is doubtful this technique can bridge the gap for more than a year, or at most 18 months. Perhaps Mr. Guth will comment on this later.

Finally, this form of recycling is not even a temporary solution for lesser-developed countries in a weak financial position—countries like India, Bangladesh and Sri Lanka which are not in a position to borrow at all in commercial markets. The World Bank estimates that an additional $2 billion will be needed in 1974 by financially weak lesser-developed countries for balance of payments purposes. This may not seem a huge sum in an absolute sense, but even this relatively small amount places tragic strains on the countries involved—strains that can only be alleviated by new international governmental approaches and a firm sense of global commitment and cooperation. And these are strains that will accelerate dramatically in 1975 and beyond as already limited reserves are exhausted.

Compounding these very pressing shorter-range problems are a host of far thornier questions and obstacles down the road. Structural adjustments, of course, will gradually get underway between the economies of the oil producers and the consuming nations. Prices may be reduced somewhat, and the oil producers will step up their imports and increase the speed of their own internal development. Countries like Iran, Venezuela, Nigeria and Indonesia have a longer-run capacity to use most of their oil surplus for internal purposes. But these processes will take considerable time. In the interim, these countries will be large accumulators of reserves.

Moreover, countries such as Saudi Arabia, Kuwait and the United Arab Emirates clearly lack internal absorptive capacities in any way commensurate with the incomes they will receive. On the contrary, one of their major aims is eventually to accumulate a body of invested wealth outside their countries which will yield an income great enough to replace their oil revenue as it runs out. Naturally they are concerned about such matters as world inflation, exchange risks, and the possibility of expropriation of their assets.

Looking at the situation realistically, I believe it is clear that both the private sector and governments must play a much more significant role in the long-term investment process.

Financial and industrial concerns from Europe, Japan and the United States already are proving of some assistance in speeding up internal development in the Middle East. My own bank, for example, is establishing a merchant bank in Saudi Arabia and a commercial bank in Iran (both jointly owned with local participants) as well as branches in Egypt, the United Arab Emirates and elsewhere. We plan to serve as one of the bridges between the Mid-East and the industrial world—both for internal development and for external investment. Yet ours can only be a small supporting role in a drama of massive proportions.

Though not yet large, long-term investments by Middle Eastern countries in the industrial nations are beginning to build up a modest scale in real estate, selected securities and some direct investments in industry. Hopefully, in the future they may be persuaded to participate more widely in such investments, as well as to assist in the financing of major international undertakings like the James Bay power project in Canada. Yet the sums requiring investment are so enormous, and the institutional facilities necessary to carry them out so limited, that I question whether such investments will have much impact on the gap for some time to come.

All of this clearly suggests that both the World Bank and the International Monetary Fund will increasingly be called upon to play key roles in the recycling process. The World Bank will need to concentrate on those lesser-developed countries that are in most serious need, while the Monetary Fund will probably have to deal with both developed and developing countries.

Ideally, funds for this purpose should come from the surpluses generated by the oil producers. Iran, for instance, has already offered to lend funds to the World Bank and IMF, and also to make some direct loans to India and others at concessionary rates to finance oil imports. Similarly, the recently announced willingness of the oil producers to establish a $2.75 billion "oil facility" to help countries with balance of payments problems is a positive move at least in the shorter term.

I fear, however, that this can only be seen as a modest first step when one considers the magnitude of the funds that must be redistributed. Solutions in many cases will demand more concessionary terms than those currently envisioned by the oil-producing nations. Moreover, both the World Bank and the IMF may have to adopt more flexible concepts of risk.

We must apply even more in terms of resources and imagination at all levels if we are to arrive at constructive long-range solutions. Critical additional steps are necessary on both the philosophical and administrative fronts to handle the massive needs involved. New techniques, strategies and mechanisms will have to be devised—and devised quickly. Most importantly, a premium will have to be placed on international cooperation.

For some time, for example, the Committee of 20 in the IMF has been considering a new central reserve asset—a revised SDR, which would represent a basket of currencies, and hence neutralize the exchange risk between major currencies. Perhaps this asset could play a role in future investment plans of the oil-producing nations, and, indeed, it is assumed that it will be part of the new IMF "oil facility."

It may additionally be possible to work out international guarantee arrangements with regard to expropriation. In this respect, we should remember that the oil producers have one important alternative to accumulating reserves and making investments abroad—they could leave the oil in the ground. From the point of view of the consuming nations, this would create serious shortages, at least for some years to come.

It is also highly desirable that ways be found to channel surplus oil revenues into projects designed to create alternate sources of energy. This would not only help the world at large, but would also provide a source of continuing revenues for the oil-producing nations after their reserves have been exhausted. But it will have to be done in collaboration with the industrialized nations which have the necessary technology, and it is to be hoped that serious discussions along these lines will not be delayed.

Finally, it is imperative that the developed countries of the world join with the oil producers to assist the less-developed nations. Unless there is a far more concerted effort by all, including my own country, in this direction, I fear that the only result will be economic and political chaos. In this connection, it is imperative that Congress act favorably on the replenishment of the International Development Association as quickly as possible. It has perhaps never been so clear that the true self-interest of any nation depends ultimately on the welfare of others.

Underlying all of these requirements, however, is the fact that we must come up with a means of recycling funds on a far more massive scale than now possible. Some argue that we should simply wait for the forces of supply and demand to bring prices down and thereby create a new structural equilibrium. Others feel that inflation in the oil-consuming nations will help alleviate the problems.

While there is some validity to both of these positions, I believe we must also be

aware of their limitations. First of all, inflation has little hope of answering the problem since the purchases of even the largest oil producers are so relatively small. Second, I fear that relying solely on supply and demand can have disastrous results for many of the developed nations—leading to disruptive domestic unemployment and depression in these countries, and to a general sense of distrust in the world community. One cannot ask nations to call continually on their reserves when they can see no clear light in the future. This is like draining one's swimming pool in the midst of a drought. Moreover, if the position of the developed nations is eroded further, the developing nations can have little hope at all.

On the other hand, of course, some painful structural changes will be required, and it would be imprudent to ignore them. The challenge, it seems to me, is to achieve a delicate balance between necessary concessions to countries with problems and an orderly realization over time of the inevitable impact that the laws of supply and demand will have on shifting world resources.

Creating a mechanism to handle recycling of this scale and to determine acceptable concessions and risks is, of course, exceedingly difficult. Perhaps the mission of the IMF could be expanded in this direction, or perhaps it would be best to create a separate vehicle so as to avoid burdening the IMF with the dual responsibilities of policing monetary affairs and curbing unemployment.

Whatever the means, I believe it is imperative we develop swiftly a new way of looking at world financial needs—a perspective that emphasizes global stability as well as individual national credit worthiness. If we are to progress significantly, we must have a vehicle that allows us time both to act realistically to correct structural disequilibriums and to avoid disharmony. And this vehicle must result from a conscious decision of both the oil-consuming and oil-producing nations. I would hope this question would be high on the agenda of the Committee of 20 when it meets later this month.

Needless to say, all of this may seem somewhat academic if either the price of oil or the demand for oil should suddenly decline. The outlook here is highly uncertain, though hardly cause for unbounded optimism. I'm sure Mr. Morris will be able to enlighten us on these issues.

Let me just say that there are some signs that the present high price is restricting demand for petroleum products in the consuming nations at least to a limited extent. Our bank estimates that world petroleum consumption this quarter will run slightly behind a year ago, whereas an increase normally would have been expected. Also, we believe that production has been expanded so that it is now running somewhat ahead of consumption. If this is the case, pressure could very well build up on prices, and it will be interesting to see how the OPEC countries react to the problems.

While oil prices may eventually come down somewhat, my own judgment is that plans and policies throughout the world should not be based on the assumption that the decline will be large enough to solve the recycling problem. Modest price reductions may give us more time, but they will not materially alter the basic situation. Indeed, I would guess that we would need a price reduction of some 40%-to-50% to produce anything close to a new structural equilibrium. Thus we have no choice but to face up to the recycling challenge and, in cooperation with the oil producers, to devise the institutional arrangements necessary to cope with it.

The successful creation of such mechanisms will be highly dependent on the political climate. Here, one conclusion is certain: the Middle East countries, by reason of a shift of wealth and resources, are entering a new period—a period during which their political influence, as well as their economic weight, will loom larger on the world scene.

The strenuous efforts in which Henry Kissinger has been engaged provide testimony to that fact, as has the parade of cabinet members from other countries to the Middle East in recent months. At the same time, the new wealth in the Middle East is likely to strengthen the hands of moderate governments in that area and orient them more firmly toward the West.

If sustained, this trend toward moderation may well be a highly desirable and significant political dividend. It will also be essential in assuring the stability that must underlie an orderly approach to the redistribution of international capital.

The situation is still beset with uncertainties, both political and economic, and we are running out of time on many fronts. Given a clear realization of the interdependence of all the nations involved, however, I believe we can find ways to transform the problem of surplus capital in the hands of some nations into many positive opportunities for progress and development worldwide. But this will not happen by itself. It will demand the involvement and dedication of both the public and private sectors on a scale far exceeding that which exists now.

Above all, it must involve a degree of global teamwork which we have not seen up to this point. If the nations of the world approach the energy situation sincerely and resolutely, there is reason to hope that it can be used as a catalyst and a rallying point for a new era of international cooperation.

It is a sad fact that challenge is too often the most effective father of unity. In the past, the fear of communism has served to lend common purpose to the nations of the Free World, and the threat of nuclear holocaust has awakened all nations to the necessity of meaningful joint solutions. Now, as these threats diminish in the minds of many, some may well be tempted to place immediate, more selfish concerns ahead of global imperatives. It would be tragic if the energy situation becomes a force for further divisiveness. Let us hope rather that it is a new spark to rekindle a mutual striving among nations that recognize the world's inevitable interdependence.

TRAINING IN GOVERNMENT

Mr. BEALL. Mr. President, government is the Nation's biggest business. Thirteen million citizens are employed in government service. This accounts for 22 percent of our gross national product. The growth of our government service, particularly at State and local levels, has been quite dramatic. For example, State and local governments are adding approximate 450,000 employees annually. Local governments alone increased 80 percent between 1967 and 1972.

This, of course, highlights the need for improved management at all levels of government. The National Commission on Productivity estimated that an annual productivity improvement of only 1 percent would reduce government expenditures by about $50 billion by 1985. The potential impact of this improvement in productivity argues, of course, for us to devote greater attention to bringing this about.

A constituent of mine, Mr. Frederick C. Dyer, who is the Director of Program Analysis for the Navy Publication and Printing Service Management Office has written an article in a recent magazine, "Training in Business and Industry." I ask unanimous consent that the article be printed in the RECORD.

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

TRAINING IN GOVERNMENT

Government has become the nation's biggest business, employing nearly 13 million people and accounting for 22 percent of the gross national product. State and local governments are adding about 450,000 employees each year, and the spending of local government alone increased 80 percent between 1967 and 1972.

Unfortunately, there is little evidence that increased staff and increased spending has added up to greater efficiency in government. On the contrary, says James Hayes, president of American Management Associations, "probably more than ever before, the American taxpayer feels he is being overcharged."

Few would deny that there is considerable room for management improvement at every level of government. And the potential impact is staggering: The National Commission on Productivity, a special commission established by the U.S. Congress, has projected that an annual productivity improvement of just one percent could reduce government expenditures by almost $50 billion by 1985!

The question is how to effect such improvement, and that's what this month's coverage on training in government is all about. There are four articles in the section:

Developing Government Managers—A rationale and outline for improving management at the Federal level, by Frederick C. Dyer, p. 50.

Learning to Lead—An account of how Oakland, Calif., is proving that good supervisors aren't born, but trained, by Eric P. Sanders, p. 52.

Getting Government Together—How a newly elected mayor used management consultants to weld St. Petersburg, Fla., managers into a smoothly working team, p. 54.

Giving Out the Word—How Dallas upgraded external communications with the aid of cassette tapes, 35mm slides, "instant recall" cards and a short course in transactional analysis, by Mary Zachery, p. 57.

We do not delude ourselves that the broad topic of training in government can be covered completely in one issue of a monthly magazine. Government is a broad subject. Its problems are vast and, due to political constraints, are not always amenable to traditional management solutions.

Nonetheless, training *is* going on in government and solutions to management problems *are* being worked out. This sampling of approaches has been prepared to give you a fix on the state of the art.

DEVELOPING GOVERNMENT MANAGERS

(By Frederick C. Dyer)

The aim of management development for a Federal manager is to enhance his effectiveness within the context of his agency's mission and of the nation's goals.

This statement of the intent of management development—to enhance a manager's effectiveness—would no doubt apply equally to all managers. But there are areas of management training that are of special relevance to Federal managers. For them it is important that attention be given to management training in the following five areas: (1) U.S. Government orientations; (2) agency orientation; (3) planning, programing and budgeting (PPB) and management by objectives (MBO); (4) analytical and quantitative methods; and (5) personal skills.

Before taking up these special areas, let us examine management training in general. For the purposes of our discussion, there are three overall categories:

General management: principles and practices.

Functional management: specialized areas such as personnel, financial, or logistics management.

Managerial analytical techniques: operations analysis, cost effectiveness, work study, etc.

The term *development* covers all education and training activities on and off the job and in formal and informal situations.

The *management of management development* means conscious planning and decision-making in regard to the education or training to be provided: who should receive what training, when, and at what cost.

The terms *executive* and *manager* are used, and confused in many contexts. Executive in popular usage has become an honorific label, regularly applied as a courtesy to anyone who is above the status of day laborer or file clerk. For our purposes, executive means an official who can make irreversible decisions in regard to the planning, programing, direction, and evaluation of a significant function. The term manager includes all those under an executive who have charge of but do not have irreversible authority for administration, continuity, advice, information, or assistance.

A staff management analyst or systems analyst must know a lot about management methods; however, he is not in an executive position. On the other hand, a branch head, who has complete charge of a function, may have real executive authority but be titled a manager.

There are three purposes of management development; promotion, updating, and innovation.

Promotion: The education or training is defined by the requirements of higher position. For example, an engineer seeking to be promoted to supervisory engineer wants to acquire the knowledges and skills of that position.

Updating: This includes development in knowledges and skills not previously required of the person in a billet. For example, an office changes its budget procedures and its managers have to be trained in the different methods.

Innovative: This is training that leads to the adoption of new concepts or wholly new programs in an organization. The following example shows the difference between updating and innovative training.

Updating: An activity installs a new automatic data processing (ADP) system. The managers who will use or cooperate with the system are given the necessary training.

Innovative: An activity trains its managers in ADP systems so that they will be able to advise the activity about the type of ADP equipment to install.

The training may overlap: innovative training in one activity will be updating or antiobsolescence training in another.

The methods of management development are shown in the accompanying chart. They are used in various combinations: seminars and workshops can be supplemented by readings, and on-the-job training can be enhanced by correspondence courses or after-hour courses.

Some people favor an immersion or drenching approach that takes the trainee completely away from his work. Others prefer an approach that enables the trainee to relate his training to his occupation as he goes along. Probably training to prepare people for promotion or to update them is best done by a mix of on- and off-the-job experiences; while training for innovative purposes must be done under specialized conditions.

As I said earlier, there are areas of management development that are of special relevance to Federal managers. I listed these five as deserving emphasis:

Government orientation: The more senior a manager is, the more he needs to know how the whole of the Federal Government operates and how he must function within the total context of laws, regulations, policies, traditions, and practices of the legislative, executive, and judicial branches.

Agency orientation: He needs to know the missions, regulations, organizations, customs, traditions, and usages of the department or agency in which he serves. In one instance, it can mean knowing when to check with another activity before making a decision; in another instance it can mean knowing how to conduct oneself during a ceremony on board a Navy ship or at an Army base.

PPB and MBO: The civilian manager needs to know about the interrelationships—in practice as well as in the theory—among planning, programing and budgeting; about appropriations, authorizations, and allocations; and how his objectives are to be derived from and to be coordinated with the mission of his agency.

Analytical and quantitative methods: Many managers have had some training or experience that has included at least introductions to time-and-motion study, methods improvement, cost reduction, work simplification, or zero defects. For the foreseeable future, the emphasis for middle- and high-level managers will probably be on operations analysis, systems analysis, and the quantitative methods used in cost-effectiveness analyses.

Personal skills: At all levels the manager requires an understanding of and skill in applying the principles of human relations and leadership, values and ethics, communications and conference techniques, and public information responsibilities. A supervisor's skills are directed to the internal management of a section or branch; the high-level manager or executive must be able to make presentations to division chiefs and even departmental top managers, congressional committees, and national organizations.

METHODS OF MANAGEMENT DEVELOPMENT

Method, advantages, and disadvantages

On-the-job (instruction by superiors).

Realistic; has built-in motivation and application.

Press of work prevents training; qualified instructors not available; training limited to immediate needs.

Methods, advantages, and disadvantages

After-hours (university courses).

No interruption to work; trainee able to relate instruction to his work each day.

Courses not available locally; trainees not able to participate; or too fatigued.

Method, advantages, and disadvantages

Workshops, seminars, and institutes.

Combines lecture and application; promotes interchange among participants who help teach each other.

Removes people from job; costs of facilities and instructors; too short; not support actual requirements.

Method, advantages, and disadvantages

Classroom courses during working hours.

Full-time focus on what is to be learned; central use of instructors and facilities; degrees and certificates for motivation.

Requires separation from work; costs of instructors, facilities, travel are high.

Method, advantages, and disadvantages

Correspondence courses.

Professionally guided self-study at own pace; very low cost per student (after initial outlay).

Some individuals not able to learn, apply, or retain instructions; others unable to study on their own.

Method, advantages, and disadvantages

Programed and computer-assisted instruction.

Efficient, organized, individuated instruction at low cost per student (after high initial cost).

Management development courses not yet available; high cost and difficulty of designing PI materials.

Method, advantages, and disadvantages

Self-study texts (reading).

Very low cost; student studies on own time at own pace.

Many people cannot learn from books; others cannot make practical applications of book knowledge.

RUNAWAY YOUTH

Mr. MONDALE. Mr. President, each year in this country, an estimated 1 million young people run away from home. From the accounts which appear in the media, we know all too well the dangers they can encounter when they have no one to turn to for help.

My Subcommittee on Children and Youth has had a continuing interest in this runaway problem, and in the role of youth-sponsored crisis services which provides help to runaways. I am pleased to learn that the Department of Health, Education, and Welfare is beginning to recognize the seriousness of this problem and take some steps to deal with it.

I am also gratified to learn of the existence of the National Youth Alternatives Project, which is trying to coordinate and further develop such services. A number of informative articles concerning runaways appear in the July issue of "Youth Alternatives," a publication of the project. I request unanimous consent that the following articles from this publication be printed in the RECORD: "National Institute of Mental Health Awards $1.5 Million Funds"; "Executive Systems Corporation Receives Funds for Legal Rights Study and 'Regional Conferences on Runaway Youth'"; "House of Representatives Acts on Runaway Youth and Juvenile Justice Bills"; and "Runaway House Handbook."

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

NATIONAL INSTITUTE OF MENTAL HEALTH AWARDS $1.5 MILLION RUNAWAY FUNDS

A total of thirty-two projects have been tentatively awarded $1.5 million in runaway funds by the Department of Health, Education and Welfare (HEW). The contracts were awarded earlier this month by the Office of Special Mental Health Concerns, National Institute of Mental Health (NIMH). NIMH will release the names of the recipients and the amounts allocated on July 1, after receipt of additional data from the projects.

According to Florence Stover, Acting Director, Office of Special Mental Health Concerns, the contracts were awarded in three program areas. Eighteen contracts were awarded for demonstration programs, ten for training, and six for evaluation. (Two projects received contracts in two program areas.)

Each application was reviewed by one of three panels, corresponding to the three program areas. Serving on the panels were HEW representatives from the Office of Youth Development, the National Institute of Mental Health, and the National Institute on Drug Abuse, and also four non-governmental representatives selected by NIMH. They were Bill Treanor, Project Coordinator, National Youth Alternatives Project, and former Coordinator, D. C. Runaway House; Judy Lazarus of the Prince Georges County Health Department, Maryland, and a Board member of Second Mile Runaway House, Maryland; Marty Beyer, who has written extensively on

runaway services; and Rochelle Nevins, a former runaway and now a Board member of Youth Emergency Service, Missouri. Of those representatives either presently or formerly affiliated with runaway houses, none sat on panels where they reviewed proposals connected with their particular projects. Representation of runaways, ex-runaways, runaway center staff, and staff of youth advocacy projects on the review panel had been one of the requests of the Ad Hoc Coalition of Runaway Centers when it met with representatives from NIMH in March.

After reviewing applications, panel members forwarded their recommendations to another group consisting solely of NIMH staff members. This group made the final decisions about who would receive funds and how much each project would be allotted. "Every proposal approved by the panels was funded, although not always at the level requested," Ms. Stover told Youth Alternatives. "We also had to take into consideration assuring a good geographical distribution of projects," she added.

When questioned about the amount of funds received by each project, Ms. Stover said that every project received less than $100,000. In March NIMH officials had said that they would try to keep the dollar amount within the $15,000 to $50,000 range, and the Ad Hoc Coalition of Runaway Centers had asked that no center receive more than $37,500.

A total of 53 applications were received in the three program areas. Ms. Stover said that "given the time limitations and the complexity of the requirements, the applications were quite good." But several panel members did not agree. They told Youth Alternatives that some proposals were "vague," "insufficiently documented," and "unclear." One panel member noted that "the stronger the proposals, the more likely they were submitted by projects which had professional social workers involved in the writing and the weaker the proposals, the more likely they were submitted by newer projects with fewer credentialed workers."

Because of the difficulty of judging the merits of projects simply on the basis of the proposals they submit, NIMH staff member Jim Gordon suggested that, when time permits, project reviewers visit projects which have submitted proposals prior to making decisions about funding those projects.

Executive Systems Corporation Receives Funds for "Legal Rights Study" and "Regional Conferences on Runaway Youth"

Executive Systems Corporation (ESC), a management consultant firm in Washington, D.C., was awarded $90,000 by the Office of Youth Development (OYD), HEW, this month for two programs related to runaways and runaway services, ESC Research Director Norman La Charite told Youth Alternatives.

A total of $30,000 is to be used to conduct a study of the legal rights of runaways; the remaining $60,000 is to be used for a series of conferences in the 10 HEW regions. Each conference will have 20–30 participants, including law enforcement officials, juvenile court judges, juvenile court intake personnel, and social service workers in public and private, traditional and alternative agencies. The purpose of the conferences will be to disseminate information on the nature and scope of the runaway problem and to sensitize conferees to the importance of diverting youth from the juvenile justice system to community-based programs.

ESC has done other consulting work for both the Washington office and the Philadelphia regional office of OYD. "It has been active in evaluating youth programs, although it has not been involved in setting up, delivering or evaluating any service programs specifically for runaway youth," Mr. La Charite said.

Metro Help is Awarded "National Runaway Hotline"

OYD also awarded $100,000 to Metro Help, a Chicago-based youth organization, for the establishment of a National Runaway Hotline. Metro Help already operates a local hotline. The national hotline will be in operation on a six-month demonstration basis. The purpose of the hotline will be to relay messages between runaways and their parents and to provide referrals for runaways to other sources of help.

House of Representatives Committee Acts on "Runaway Youth" and "Juvenile Justice" Bills

(By Ira Burnim, Legislative Coordinator, NYAP)

Two important pieces of legislation, the Juvenile Justice and Delinquency Prevention Act (H.R. 6265) and the Runaway Youth Act (H.R. 9298), were recommended for passage this month by a House of Representatives Committee. The bills must now be voted on by the full House.

The Juvenile Justice and Delinquency Prevention Act authorizes the establishment of a Juvenile Delinquency Prevention Administration in the Department of Health, Education, and Welfare (HEW) to develop comprehensive programs for the prevention and treatment of juvenile delinquency. The Runaway Youth Act authorizes the Secretary of HEW to make grants and to provide technical assistance to localities and nonprofit, private agencies to establish, strengthen, or fund existing or proposed runaway houses.

On June 6, both bills came up for their final hearing before the Subcommittee on Equal Opportunities of the House Committee on Education and Labor. The Subcommittee approved the substance of the bills and then in a move intended to increase the bills' chances for passage by the House, combined the bills into a new piece of legislation, H.R. 15276,[1] the Juvenile Delinquency Prevention Act of 1974. The Subcommittee unanimously recommended the new legislation to the full Committee on Education and Labor.

Several changes in language suggested by NYAP and other alternative youth projects were written into the new bill. In the section of the bill dealing with runaways, revisions were made to increase the size of grants from $50,000 to $75,000 and to modify the language requiring a runaway center to contact the young person's parents and local authorities. In the Juvenile Justice section of the bill, revisions were made to increase the share of funds for private nonprofit agencies.

On June 12, the full Committee on Education and Labor met to consider the bill. The Committee decided 28–1 to support it.

The chances that the House will vote favorably on H.R. 15276 seem good. The issue over which the most controversy is expected is whether there should be a new delinquency prevention administration in HEW to oversee the legislation. Rep. Albert Quie (R.–Minn.), ranking minority member of the Committee on Education and Labor, plans to mount an effort to amend the bill to locate responsibility for its administration in the Law Enforcement Assistance Administration (LEAA) rather than in HEW.

The House of Representatives is scheduled to vote on the Juvenile Delinquency Prevention Act Wednesday, June 26. Contact NYAP for the results of the vote.

Runaway House Handbook

In 1973 the Center for Studies of Child and Family Mental Health, National Institute of Mental Health (NIMH), Department of Health, Education, and Welfare (HEW), published the first edition of a Community Handbook Series entitled Runaway House Handbook. The handbook was reprinted by NIMH this year; however, in the second edition, the preface to the handbook was omitted. Written by Ruth Falk, a consultant to NIMH, the preface explains the rationale for publishing the handbook and the persons, in addition to Ms. Falk, who deserve credit for its preparation. Because we feel the preface is an important part of the handbook, Youth Alternatives is pleased to publish the following excerpts. The Runaway House Handbook and other handbooks in this series can be obtained by writing: NIMH, Center for Studies of Child and Family Mental Health, 5600 Fishers Lane, Rockville, Maryland 20852.

PREFACE

"This is the first in a series of 'how to' handbooks developed for the Section on Youth and Student Affairs of the Center for Studies of Child and Family Mental Health at the National Institute of Mental Health to help people in communities develop their own child and family services which meet their particular needs. These handbooks set a major precedent in that a majority of them will be developed by people who do not have traditional credentials. The series reflects the alternative service movement in which people are becoming self-reliant by developing skills to take care of themselves.

"In 1971 the Section on Youth and Student Affairs contracted with Bill Treanor, Coordinator, Special Approaches in Juvenile Assistance in Washington, D.C., to write a handbook on how to develop and run a youth initiated runaway house. The book was to include a history of SAJA's Runaway House and its other spinoff projects, as well as a documentation of the difficulties of other youth initiated projects in obtaining grant support. Runaway programs across the country were to be contrasted to traditional programs which were more abundantly funded but did not meet the needs of youth.

"The contract was let with three formal and informal purposes in mind.

"First, Dr. Edwin J. Nicols, Chief of the Center for Studies of Child and Family Mental Health, was committed to having the Center produce 'cookbooks' or 'how to' handbooks to help people in their communities develop their own child and family services which will meet their particular needs . . . Second, the contract was let to provide support for Runaway House in continuing its work and to provide the project with the energy and/or money to have one or two staff people serve as project writers. They would develop a program and grant application for the further development and support of the project . . . Third, the project was undertaken by the Section to aid in its advocacy efforts (within and outside NIMH), to obtain support for youth activities, and to develop a new funding mechanism and youth office responsive to the needs of youth. . . ."

"The high quality of this document should pave the way for other skilled groups in our communities who do not have traditional credentials to gain support from the Government. I have spent many, many hours talking with Dodie Butler, Joe Reiner, Jay Berlin, and Bill Treanor of Runaway House, Dan Murphy of the Washington Free Clinic, Judy Heimel of the Women's Counseling Center in Minneapolis, Carol and Floyd Turner, Charles Williams, David Falk, and Tom Linney about the problems and potentials of youth initiated projects, the needed services for youth, as well as the need for viable roles for youth to have impact on the institutions which directly affect their lives. As a result of these talks and the work developed here,

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[1] Copies of H.R. 15276 can be obtained by writing to the House Document Room, U.S. Capitol, Washington, D.C. 20515.

we have been able to convince key NIMH staff members of the important work that youth initiated programs are doing. Joe, Bill, Tom and Judy were particularly instrumental in developing the initial plans for a funding mechanism which would be responsive to the needs of these projects.

"The Government tends to fund established groups who have large budgets and can support an NIMH grant. Low budget projects do not have the flexibility in their budgets to afford the Federal funding, which places a burden on the recipient, who often must spend money which the project does not have until funds are received from the Government.

"Today NIMH has committed itself to the implementation of a new grant program to support youth activities. Plans to implement a youth office staffed by young people and a review committee composed of youth reviewers chosen primarily on the basis of their experience (and not their academic background) are being explored. In July 1972, a proposal for funding programs responsive to the needs of youth was developed with consultation from youth by the NIMH Intramural Committee on Youth Initiated Programs. The proposal was organized by the Section, with consultation from Dr. Sam Silverstein, to develop and support such a plan. (The Intramural Committee is composed of NIMH staff who are committed to supporting youth activities, but have found that they are unable to get youth grant applications through the ongoing funding procedures.)

"A pilot of the proposal developed by the Committee was successfully conducted by the Division of Mental Health Service Programs. Sixteen youth initiated projects were critiqued and reviewed by youth reviewers and presented to the standing review committee. Seven projects which were recommended for approval by the youth reviewers were approved and funded; a hotline, a women's counseling center, a free clinic, and a drop-in center were among the projects funded.

"Some aspects of the new grant programs, as proposed by the NIMH Intramural Committee on Youth Initiated Activities, would include an Ad Hoc Youth Review Committee which would:

(a) Review small scale (up to $10,000) grant applications from youth initiated projects which have components of either research, service, or training or all three.

(b) Provide speed in processing and funding youth applications. Ninety days from date of submission of a grant application, an applicant will receive payment of funds if the application is approved.

(c) Provide a simplified grant application.

"Many NIMH staff members have been involved in writing this report in conjunction with supporting the development and planning of a new NIMH funding mechanism for youth initiated activities. I am particularly grateful to Julie Philips, Eliot Liebow, Lura Jackson, Sam Silverstein, Jane Lynch, Joy Schulterbrandt, Debbie Pridgen and Francis Gardner for their continued support and involvement."

RUTH B. FALK,
Consultant, Section on Youth and Student Affairs, Center for Studies of Child and Family Mental Health, National Institute of Mental Health 1972.

TRIBUTE TO AMERICAN BUSINESS

Mr. BROCK. Mr. President, I would like to draw attention to a recent statement by Thomas B. Adams, chairman of the board of Campbell-Ewald Co. of Detroit, Mich. Mr. Adams notes that American business feeds, equips and serves people better than any kindred institution in the world. I could not agree with that statement more.

Our present position in the world community is due in large measure to the people who make up the business community. Leadership, initiative, and hard work has given the United States an opportunity to have an impact on the world community.

Here at home American businessmen have had a very positive effect on the American life-style. It is time that we pointed out the positive aspects of American business.

I would like to ask unanimous consent that the statement by Thomas B. Adams be printed in the RECORD.

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

IT'S TIME SOMEBODY GOOD-MOUTHED BUSINESS

Frankly, I have had my fill of writings and talks about what's wrong with American business.

I absorb. I judge. I act. Like other tuned-in businessmen, I do my best before criticism or after it. But I keep wondering when the other side of the coin will show up.

Not being able to find much on the subject of what's right with American business, I have decided to do this small piece on that very large subject.

Obviously, I hope to bring this admittedly imperfect and incomplete case to as many minds as I can here. But if its only reader is me, at least I'll have something to turn to when the steady beat of pessimism and negativism about business begins to wrench my perspective.

AND SO TO WORK

American business feeds, equips and serves people better than any kindred institution in the world.

The breadth, variety and amount of goods and services it has created in support of the American life-style are simply beyond comprehension.

The prices of those goods and services in relation to people's incomes are, despite inflation, the envy of the consumer world. For instance, the average American family spends 17% of its take-home pay for food. The average British family spends 30%. The average Russian family, 50%. A specific meal for a family of four costs the average American worker one hour's work. In West Germany, that meal costs two hours' work. In Italy, nearly five.

The U.S. has only 7% of the world's land area and only 6% of its production. But we account for one-third of the world's production of goods and services. Our national output, for example, is greater than Western Europe's and Japan's combined.

MORE PIECES OF THE ACTION

More people share in America's bounty than ever before. There are more people employed in America than ever. There are more individual shareholders in corporations than ever—32 million compared with about 6 million in 1952. Since then, savings accounts have increased in number by over 40 million, and the dollar volume of the accounts has gone up almost 200 billion.

There are more people—about 80%—in the middle class than ever. And today, 64% of all dwellings in the U.S. are occupied by the people who own them.

TWO TRILLION DOLLARS, HERE WE COME

Despite all business-sector imperfections, those are massive achievements. Yet I can see no reason why the achievements of the future won't dwarf them. It took approximately 200 years for us to reach our first trillion-dollar economy. And it should take only about 15 more to reach our second.

THE ABOMINABLE BUSINESSMAN HAS LEFT HIS TRACKS, DAMN HIM

To be sure, there have been documented cases of ruthlessness, chicanery and other abominations in the business community. There also have been unsung cases of dumbness, greed and impeccable mediocrity, I am sure. Even though those cases have been the few and not the many, a fuzzy image of businessmen as some kind of necessary evil lives on in many people's minds.

I agree that businessmen have made glaring errors. And I think that's because we are imperfect human beings. But I am convinced that business has faced up to its errors—and is facing up to them and doing something about them.

THEY'RE GOOD PEOPLE, AND THEY CARE

For 30 years as an advertising man, I have been a part of the business community; I have known its people on all levels, in big business and small. When I think of them, words like *intelligent, imaginative,* and *well-rounded* come to mind. Words like *involved, conscientious, responsible* and *responsive* follow. (Yes, on occasion a less charitable word will come up but, happily, that is the rare exception.)

I am a witness to those business people working hard for today *and* tomorrow. Not just for themselves, but also for the people they are ultimately responsible to—our quarreling, groping, sprawling, multi-talented assembly of over 200 million highly opinionated individuals who have come so far and have yet so far to go.

OPTIMISM THAT MAKES SENSE

As you can see, I'm not an all's-well-with-the-business-world kind of human being.

But it's clear to me that there is enormously more to be happy and optimistic about than there *is to be* unhappy and pessimistic about.

If you didn't already hold that view, I invite you to share it with me—beginning right now.

THOMAS B. ADAMS,
Campbell-Ewald Co., Detroit.

FOOD RESERVE DEBATE

Mr. HUMPHREY. Mr. President, I would like to point out to my Senate colleagues an article that appeared in the July issue of Farm Profit, entitled "Do You Want a Government Grain Reserve?" It poses a basic question being raised by grain farmers, livestock producers and urban consumers. Mr. Wiebel's article attempts to show both my and the administration's view on grain reserves.

Secretary Butz's thinking is that we have the capability to adjust production if importing countries share with us their projected needs. Reserves needed to meet emergencies should be held by importing countries, farmers and the trade.

He states:

From the standpoint of the farmer, food reserves can never be perfectly isolated from the market. Buyers know they are there, and it is grossly unfair to expect farmers to produce in excess of projected annual requirements and then be penalized by the depressed prices which government stocks would produce.

My reserve legislation is supported by Walter Goeppinger of the National Corn Growers and Robert Lewis of the National Farmers Union.

Mr. Lewis says:

We think farmers would be better off with a tightly written law (such as the Humphrey amendment) that would meet consumer needs but insulate producers from political and consumer pressures for cheap food, than they are with the boom and bust program they have now. Right now, farmers are heading for a bust.

In my view, Mr. Butz entirely misses the point as to how much control farmers have over adjusting their production to meet the demand of the market. Farmers make their basic crop decisions without having much of an idea as to what prices they can expect to receive. Secretary Butz speaks as if they were operating assembly lines instead of farms.

A modest grain reserve program will help bring some stability in the marketplace and fair prices for our farmers rather than the boom and bust system which the administration's policies are perpetuating.

We must answer Mr. Wiebel's question affirmatively if we want to help our farmers increase production, be a reliable exporter and have the capability of responding to serious humanitarian needs.

To date, I must sadly conclude that the administration has not even begun to ask the right questions.

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

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

DO YOU WANT A GOVERNMENT GRAIN RESERVE?

(By Jerry L. Wiebel)

World food watchers should be breathing a sigh of relief by the time this issue of Farm Profit hits your mailbox. Barring any disasters, wheat growers should be harvesting the biggest crop on record—enough to fill the world's stomach for a little while and bolster world food reserves which had fallen to a mere 27-day supply.

However, Dr. Norman Borlaug, wheat breeder and Nobel Peace Prize winner, figures we need a series of good weather years to catch up. "If we're not lucky on weather, 50 to 100 million people could starve," he says.

The United Nations will hold a world food conference in November where they'll encourage countries to build reserves to prevent famine and kick around ideas for a world food bank.

In the U.S., few people are starving. But some are hungry for a strategic grain reserve. Their most convincing argument—the effect food shortages would have on the economy.

Consumers and livestock producers have been smarting from high food and feed costs, partially as a result of the world crop shortfall back in 1972. Heavy export demand that followed will draw U.S. feed grain supplies down to 900 mil. bu. (corn equivalent) before the 1974 corn crop comes in. U.S. wheat carryout is estimated at 200 mil. bu.—the lowest in over 20 years.

Scary thing is that the '72 world crop "shortfall" was only 1% less than the record breaking 1971 crop. Imagine what food and feed prices would have been had the world deficit been greater—or if the U.S. hadn't had back-to-back bumper crops in 1971, '72 and '73, say grain reserve advocates.

What's more, we no longer have a reserve of diverted acres to draw on. Then, there's our humanitarian responsibility to less developed countries who depend on us for food grants.

DOES HUMPHREY HAVE THE ANSWER?

Because of our current low carryover, Dr. Louis Thompson of Iowa State estimates that even a 5% drop in U.S. crop production this year would spell real trouble. Ironic thing is that 1974 could also turn out to be a year with market-busting surpluses. To cover both possibilities, Senator Hubert Humphrey of Minnesota has proposed an amendment to the '73 farm bill which he figures will insure consumers stable food supplies while reducing risks to farmers.

The bill would establish minimum carryover levels for key commodities—600 mil. bu. for wheat, 1.6 mil. bu. (corn equivalent) for feed grains, 150 mil. bu. for soybeans and 5 mil. bales for cotton. Commodity Credit Corp. would hold one-third of these stocks. The rest would be pipe line supplies or held by farmers and the trade.

To acquire its stocks, CCC would sop up excess production in big crop years by offering loans at 66 to 90% of the target price. To sweeten the pot, Humphrey would raise 1974 target prices to $3 per bu. for wheat, $2 per bu. for corn and 50¢ per lb. for cotton—up from $2.05, $1.38 and 38¢, respectively.

In lean years, when projected carryover dipped below the established minimum, CCC stocks would be released—but for no less than 135% of target to isolate them from the market. Export licensing and some trade restrictions would also go into effect.

IT'S THE PRINCIPLE THAT COUNTS

The key question is whether you want the government to get back into the grain storage business. Groups such as the American Bakers Association, Church World Services, the National Corn Growers Association and National Farmers Union say yes. Lining up in opposition are the Farm Bureau, the National Association of Wheat Growers and the USDA.

Opponents aren't against a reserve for famine relief—they just don't want stocks piling up in the hands of government. They say there's too fine a line between government food reserves and government surpluses.

"If the government had had stocks of soybeans the day prices went to $10 per bu., you know what would have happened, even if it would have taken a new act of Congress to do it," says Don Donnelly of the Farm Bureau.

Secretary Butz's thinking: Under existing legislation, we have the capability to adjust production if importing countries share with us their projected needs. Reserves needed to meet emergencies should be held by importing countries, farmers and the trade.

"From the standpoint of the farmer, food reserves can never be perfectly isolated from the market," Butz explains. "Buyers know they are there, and it is grossly unfair to expect farmers to produce in excess of projected annual requirements and then be penalized by the depressed prices which government stocks would produce."

Robert Lewis of the National Farmers Union charges that the Administration is already hurting farmers by encouraging overproduction. After the elections, Farmers Union expects a Congress more independent of the Administration, so will press for an even higher loan rate than that proposed by Humphrey, commodities under farmer control plus storage payments. They'll settle for the Humphrey bill for now.

"We think farmers would be better off with a tightly written law (such as the Humphrey amendment) that would meet consumer needs but insulate producers from political and consumer pressures for cheap food than they are with the boom and bust program we have now," Lewis says. "Right now, farmers are heading for a bust."

Based on a land cost of $60 per acre and a 110-bu. yield, Purdue economists estimate it may cost you $1.65 per bu. to grow corn this year—possible $1.85 if you didn't buy your fertilizer until this spring. If corn prices fall, the best you could get from the government now would be $1.10 under loan.

Under the Humphrey amendment, the CCC would probably acquire stocks under loan this year—presumably in the neighborhood of $1.80 per bu.

Walter Goeppinger of the National Corn Growers says a reserve such as Humphrey is proposing is needed and may head off panic legislation later. "Food is a public utility, even if we do not know it," he explains. "If severe shortage comes, agriculture will be regulated—just like other public utilities. So we should be smart enough to set the guide lines ourselves, before it happens."

WOULD THE PROGRAM WORK?

Jerry Rees of the National Association of Wheat Growers notes that prior to the 1972 world crop shortfall, the U.S. had 860 mil. bu. of carryover wheat—260 mil. bu. more than Humphrey hopes to maintain. He doubts the triggering mechanisms and export controls of the program could have withstood the pressures of the market, so we'd have ended up with the same low carryover we have now.

"We feel importing countries can establish their own reserve needs better than we can," he continues. "A reserve large enough to meet their needs would depress our prices and relieve them of a responsibility they ought to shoulder themselves."

As for domestic reserves and dollar-a-loaf bread scares, Rees points out that we produce enough wheat to export more than twice the amount we consume domestically. "The domestic market has plenty of opportunity to buy the wheat they need," he declares.

SUMMING IT UP

A strategic gain reserve promises consumers stable food and feed prices—which means you probably won't get as many big price run-ups that paid off so many mortgages last year. You could live with that if you can convince city Congressmen you need high enough loan and target prices to prop up prices in big crop years. That may be tough.

Even without a grain reserve, however, the government is involved in your operation—as things stand now, you don't have much price protection and you must put your faith in the USDA to adjust production to meet consumer needs at fair prices to you.

FACING THE WORLD FOOD CRISIS

Mr. HUMPHREY. Mr. President, the world currently faces a food crisis of unprecedented magnitude. Not only is there the prospect of a long series of famines, but there is a grave danger that what is now a short-term crisis will become a chronic situation.

Nobel Prize winner Norman Borlaug estimates that between 10 million and 50 million people could starve to death in India in the next year. And in Africa the long drought continues.

This is a problem for all of us. As Dr. Borlaug says:

You can't build peace on empty stomachs.

I have introduced Senate Resolution 329, the world food resolution, which urges the United States to take prompt steps to meet this crisis. Unless action is taken immediately, starvation may become the normal condition for much of humanity.

An article in the New York Times of

July 26, 1974, describes what has become a desperate situation. The article, entitled "Experts Ask Action To Avoid Millions of Deaths in Food Crisis," points out that the fertilizer shortage combined with the drought conditions have reduced food production drastically and brought us to the crisis point sooner than anyone had expected. The article also reveals that the "Green Revolution" has been practiced on less than one-tenth of the land in most developing countries, because it is heavily dependent on high-technology and large capital investment.

The only real solution to these problems, the article concludes, is a large-scale increase in agriculture production on the part of the developing countries. This will require not only increased technical assistance but also large quantities of fertilizer credit. Even if these conditions can be created, most experts agree that the situation is hopeless if we do not stabilize the world population.

The problems of population growth and agricultural production will be important matters for the attention of the World Food Conference in November. It is essential that we not only avert a short-term disaster, but also take steps toward a permanent solution of the problem.

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

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

EXPERTS ASK ACTION TO AVOID MILIONS OF DEATHS IN FOOD CRISIS

(By Boyce Rensberger)

From drought-besieged Africa to the jittery Chicago grain market, from worried Government offices in Washington to the partly-filled granaries of teeming India, the long-predicted world food crisis is beginning to take shape as one of the greatest peacetime problems the world has had to face in modern times.

With growing frequency, a variety of leading individual experts and relevant organizations are coming forth to warn that a major global food shortage is developing.

They say it is almost certain to threaten the lives of many millions of people in the next year or two, and they urge international action to prevent a short-term crisis from becoming a chronic condition.

A DIFFERENT SITUATION

While there have always been famines and warnings of famine, food experts generally agree that the situation now is substantially different for these reasons:

World population is expanding by larger numbers each year, especially in the poor countries that are most susceptible of famine. Last year, the population increased by 76 million, the largest increase ever. The number of mouths to feed throughout the world has doubled since the end of World War II.

While agricultural production has generally kept pace, it has done so by increasing reliance on new, high-technology forms of farming that are now threatened by shortages of fertilizer and energy and soaring prices of raw materials.

The grain reserves that once made it possible to send emergency food to stricken areas are now largely depleted. The huge American farm "surpluses" that were such an item of controversy in the nineteen-sixties have long since been given away or sold and eaten. The world stockpile of grain that, in 1961, was equivalent to 95 days of world consumption has fallen to less than a 26-day supply now.

As the Arab oil embargo hastened the beginning of the energy crisis, so a major global shortage of fertilizer, precipitated by the oil squeeze, is cutting into this year's agricultural productivity in several populous countries.

SOONER THAN EXPECTED

The lack of fertilizer and rain and the untimely arrival of rains in some areas, are, in the view of many international food authorities, bringing the world to a food crisis sooner than had been expected a year or two ago.

The fertilizer shortage has already stunted the latest wheat crop in India and will likely reduce the succeeding crops so severely that by this autumn India could be experiencing a famine of sizeable proportions. Unless massive international aid is forthcoming, Norman Borlaug, the Nobel Prize-winning developer of high-yielding wheat, has forecast, from 10 million to 50 million persons could starve to death in India in the next 12 months.

His forecast is based on the calculated number of people the wheat shortfall would have fed plus a factor for the shortfalls expected in crops not yet harvested but lacking fertilizer and rain.

In other parts of Asia and in Latin America where supply has long barely met and sometimes failed to meet demand, people are beginning to experience unusually severe food shortages. The food that is available has become so costly that the meagerest of meals for millions of poor families take from 80 to 100 per cent of their incomes.

EXPERTS NOT OPTIMISTIC

And in Africa the long drought conditions. International relief agencies forecast that the effects in coming months could be more severe than ever because the people have been weakened by previous years of deprivation.

Before this year is out, many food experts fear, the soaring curve of food consumption will have overtaken the gentler slope of food production for the vast majority of the world's people, bringing more of mankind to hunger than ever before.

Many food and international relief experts say privately that they are not optimistic about how fast the rich countries will respond to a large famine. "It may take 50 or 100 million deaths before people are moved to find some kind of effective, long-term solution," one foundation official said.

A number of experts believe that the crisis may try the humanitarian potential of the American people—who control the world's largest source of food—as never before. Increasing social and political pressures within affected countries and growing stresses on "business as usual" international trading practices may test to the limit the ability of world leaders to cooperate.

Addeke Boerma, director general of the United Nations' Food and Agriculture Organization, said that the international community must soon come to terms with "the stark realities facing the people of this planet."

"Remember," Mr. Boerma said, "that, for one thing, prolonged deprivation leads people to desperation. Desperation often leads them to violence. And violence, as we all know, thrives on enlarged prospects of breaking down restraints including those of national frontiers."

Norman Borlaug often warns of the same thing when he says, "You can't build peace on empty stomaches."

The growing food shortage began to become critical in 1972, when a lack of rain in many countries led to poor crops. World grain production fell 4 per cent, a significant drop because the demand for food grows by 2 per cent each year. Drought in the Soviet Union caused that country to buy in 1973 one-fourth of the United States wheat crop.

"This small change was enough to cause violent responses in prices and shifting of foreign exchanges expenditure and human suffering," said Lowell Hardin, head of agricultural programs for the Ford Foundation, a major supporter of agricultural research.

Poor weather this year, coupled with the fertilizer shortage, is expected to limit crop yields sharply again. The effects will, of course, be felt most severely in countries where the nutrition levels are already inadequate.

Although areas of malnutrtiion exist in virtually all underdeveloped countries, by far the greatest food problems now exist among the 700 million people of India, Pakistan and Bangladesh. Other large problem areas are in the drought-stricken regions of Africa, in northeastern Brazil, among the Andean Indians, and in the poorer parts of Mexico and Central America.

The Overseas Development Council, a private "think tank" that studies the world food situation, estimates that one billion people suffer serious hunger at least part of the year. The F.A.O. estimates that 400 million people are malnourished but adds that "a less conservative definition [of malnutrition] might double the figure."

According to the World Health Organization, ten million children under the age of 5 are now chronically and severely malnourished, and 90 million more are moderately affected. While undernourished children may remain alive for a while, they are extremely vulnerable to minor infectious diseases.

"Where death certificates are issued for preschool infants in the poor countries, death is generally attributed to measles, pneumonia, dysentery or some other disease when, in fact, these children were probably victims of malnutrition," said Lester Brown, senior fellow of the Overseas Development Council.

W.H.O. figures show that of all the deaths in the poor countries, more than half occur among children under five, and that the vast majority of these deaths, perhaps as many as 75 per cent, are due to malnutrition complicated by infection.

While most people recognize that protein deficiency is a major problem, few appreciate that many people also suffer from a lack of starchy foods, which supply calories for energy.

BELOW THE MINIMUM

"Average calorie intake in countries containing close to two-thirds of the world's people is below the nutritional minimum required for normal growth and activity," Dr. Brown said.

Even in countries where protein and calorie intake may be adequate, there can still be malnutrition due to deficiencies in one or more trace nutrients. W.H.O. authorities estimate that 700 million people now suffer iron deficiency anemia severely enough to impair their ability to work.

Every year hundreds of thousands of children, especially in Southern Asia, go blind due to a lack of the leafy green or yellow vegetables that supply vitamin A.

Perhaps the most widely publicized recent hope for improving world food production is the controversial "Green Revolution," the use of new seed varieties that respond to irrigation and fertilizer with vastly increased crop yields.

Although the new, high-yielding strains involve mainly only two kinds of crops, wheat and rice, the potential benefits are significant because each of these grains supplies one-fifth of the world's food, more than any other source, plant or animal.

In Asia, where the situation is most critical, cereal grains, meaning wheat and rice almost exclusively, supply 74 per cent of the calories consumed. In North America, cereal

grains supply only 24 per cent of the caloric intake. The difference is that North Americans and, increasingly Europeans and Japanese, consume large quantities of meat, milk and vegetables.

However, because much of the meat and dairy products consumed in the United States require grain for their production, the average American diet requires about five times as much grain to be grown as does the average Indian diet.

The "Green Revolution" has been criticized as giving all the advantages to large-scale high-technology farmers who then squeeze out their smaller competitors. Because most of the world's farmers have been too poor to buy irrigating equipment and fertilizer and too isolated to get the needed technical advice, they have not taken advantage of the new farming methods as readily as have wealthier farmers.

NEW CREDIT SOUGHT

For these and other reasons, Green Revolution farming has not been practiced on one-half the arable land in any developing country, and in most of those countries it has been used on less than one-tenth the farmland.

Thus, agricultural researchers like Mr. Borlaug note, the full gains to be made through the Green Revolution have yet to be realized. Efforts are now under way through many agencies to develop credit mechanisms for small farmers to enable them to invest higher yields and to improve the teaching of new farming methods to small farmers.

In small countries where this has been done, such as Taiwan, where the average farm size is 2½ acres, it has been found that small farms outproduce the huge "agribusiness" farms of the United States. American farms yield an average of 3,050 pounds of grain per acre per year. Taiwanese farmers get 3,320 pounds.

While a long-term solution of the world food crisis depends on fundamental changes in the policies and practices of most small countries, the short-term solutions, many authorities feel, depend more on United States policy.

From the mid-nineteen-fifties to the nineteen-seventies, while the United States Government was buying surplus grain to keep market prices up, much of the developing world relied on this excess production to prevent famine. Through a change in Department of Agriculture policy, American grain reserves have now been largely eliminated.

To an extent greater than many people realized, it was American surpluses that stood as the world's buffer between enough to eat and famine. Now there is considerable controversy over whether the United States should reestablish large grain reserves or, as an alternative, contribute to a proposed world granary that famine-stricken nations could draw upon.

The debate includes concern over the impact of an American reserve on domestic prices, with the perennial conflict between farmers who want to sell for high prices and consumers who want to buy for low.

Although many food experts see a world grain reserve as essential in dealing with sporadic famines, most agree that, for the long range, even the vast productivity of American farms cannot forever make up the world's food deficits. Population is growing too large.

While every country produces all or most of the food it consumes only a handful produce much more than enough for domestic needs, thus providing large quantities for export. Besides the United States, the major food exporters include Canada, Australia and Argentina.

REALISTIC SOLUTION

For the long-term solution, few experts see any realistic solution other than to intensify the agriculture within the developing countries, trying to make each country as nearly self sufficient as possible. The agronomists note that because agriculture in the United States and other developed countries is already operating near the limits of presently available technology, whatever gains that can be expected must come from improvement in the countries where agriculture remains poor.

However, the experts note, upgrading agriculture in the poor countries will not be easy, because that effort would depend on ample supplies of fertilizer (and the petroleum from which much fertilizer is made), irrigation equipment and know-how, new credit mechanisms and continuing plant-breeding programs to adapt the better strains to local climatic conditions.

Much of this effort is becoming increasingly costly in a world of scarce resources and tight markets.

Many experts, such as George Harrar, a pioneer in breeding better food plants and a former president of the Rockefeller Foundation see difficult conflicts between the humanitarian desire to rescue famine victims with food handouts and the need to increase incentives for poor countries to become more self-reliant in food.

"Why should we feed countries that won't feed themselves," Dr. Harrar often challenges.

While no one advocates abandoning innocent famine victims, many agree with Dr. Harrar that ways must be found to end the history of dependence on the United States for food that many small countries have had.

Because of the great complexity of the food problem, and because of the increasing interdependence of nations in matters of food, fertilizer, energy and raw materials, many authorities see a need to develop new world institutions to deal effectively with the problems.

Even then, most experts are not sanguine, for there remains the problem of population growth.

"I don't think there's any solution to the world food situation unless we get population stabilized," said Sterling Wortman, vice president of the Rockefeller Foundation. "Those of us who have been working to increase the food supply have never assumed we were doing any more than buying time."

CITY OF CHICAGO'S PROCLAMATION ON GSA DAY

Mr. PERCY. Mr. President, July 1974 marks the 25th anniversary of GSA and I was pleased to learn that earlier this month the city of Chicago recognized GSA's 25th year of Government service by proclaiming July 1 GSA day in Chicago. I share the city's sentiments that GSA has been dedicated to the goals of efficient service and excellence in performing its Federal management responsibilities. Much of this recognition can be attributed to the outstanding leadership abilities of the Administrator of GSA, Arthur F. Sampson. I would like to take this opportunity to congratulate each of the 40,000 GSA employees for 25 years of excellent service to the Federal Government, and I ask unanimous consent to print in the RECORD the proclamation issued by the city of Chicago.

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

PROCLAMATION

Whereas, a quarter century ago, on July 1, 1949, the General Services Administration was established by Section 101 of the Federal Property and Administrative Services Act of 1949 (63 Stat. 379); and

Whereas, the General Services Administration has served the public and the agencies of the Federal Government effectively carrying out its procurement and property management responsibilities; and

Whereas, the observance of this 25th Anniversary of the Administration will be a period of recommunication and rededication to the goals of efficient service and better management within GSA, and a renewal of efforts to improve all phases of GSA operations; and

Whereas, loyal employees who have served GSA during these 25 years will be publicly recognized and honored; and celebrations are planned which will include all 40,000 GSA employees throughout the nation:

Now, Therefore, I Richard J. Daley, Mayor of the City of Chicago, do hereby proclaim Monday, July 1, 1974, to be General Services Administration Day in Chicago and urge all citizens to take cognizance of the special events arranged for this time.

Dated this 18th day of June, 1974.

CHILDREN AND YOUTH CAMP SAFETY

Mr. MONDALE. Mr. President, recently I chaired hearings before my Subcommittee on Children and Youth on the subject of children and youth camp safety. Every year 7 million children attend camps in this country. When they leave home for summer camp, they and their parents look forward to the recreational and educational experiences that camping has to offer. Yet, for some, camping turns to tragedy.

Testimony before the subcommittee brought forth many facts which bear upon the question of whether the Federal Government should develop national standards for youth camps. We learned, for instance, that in 1973, at least 25 children died at camp; 1,448 were injured; and 1,223 suffered serious illness while they attended camp. We also learned of the personal tragedy suffered by families of campers who are injured or killed at summer camp. We also learned that only six States have good camp safety laws which are adequately enforced.

Clearly, parents and campers have a right to expect that the camps that they attend are safe and responsible. They have a right to expect that those few camps which do not meet minimum health and safety standards will not be permitted to operate until violations are corrected.

In a recent Washington Post article, Bill Gold does an excellent job of pointing out the need for Federal legislation to protect children at camp. Mr. President, I ask unanimous consent that the article be printed in the RECORD.

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

[From the Washington Post, July 17, 1974]

ONE TEACUP AT A TIME

(By Bill Gold)

An ocean of words washes over newspaper editors each day as they scan incoming dispatches. Their task is to distill it into teacups of information that can be passed along to subscribers whose time is limited.

This week, for example, Sen. Walter F. Mondale (D-Minn.) convened his Senate Sub-

committee on Children and Youth to bear testimony on the Youth Camp Safety Act.

This is a measure that would, if enacted, set federal safety standards for the camps to which millions of parents send their children.

Staff writer Richard E. Rotman was sent to Capitol Hill to cover the hearings, and returned to write a fact-packed report for the next day's paper. He was allotted space enough to give the essence of what the legislation would do, what the situation is now, who testified and what was said. It was a "hard news" report on what happened.

What Rotman had no space to tell, and what there is seldom space enough to include in a news dispatch, was a book-length background of detail. Yet to understand why safety standards are being proposed for youth camps, one needs to know that testimony was given that:

Youngsters are in some instances packed into ancient multiple-story hotels without fire alarms, fire escapes, or emergency exits. When fires broke out in facilities of this kind in "New Hampshire, New York, Pennsylvania and elsewhere," deaths resulted.

In California, 62 children and eight leaders were transported for a 200-mile trip over a high speed highway in an open tractor-trailer truck driven by a young counselor. Five were killed and all the others injured.

The witness who gave this testimony was Mitch Kurman, whose young son had drowned in an earlier camp "accident." Kurman testified that he sent a check to California authorities for an official report on the highway tragedy; his check was returned and he was informed that "this information is not available to the public."

Children from a Long Island camp were sent to visit Pennsylvania "in a bus with faulty steering" driven by "a driver whose license had been revoked for previous violations." Seven died and 53 were injured.

One camp had a 15-year-old part-time dishwasher and part-time "instructor" in charge of its rifle range. When a young camper's rifle jammed, the instructor took over the rifle in an attempt to fix it. The young camper was shot in the abdomen.

Youths at another camp were permitted to float down a swift river in inner tubes with counselors who were "untrained in life-saving and resuscitation techniques."

The children were not given lifejackets. One child became entangled in a fallen tree in the water, and began to drown. When a counselor was asked what she did when she saw the girl drowning, she said, "I screamed." Asked what she did next, she said, "I cried." The child died.

Fifteen children were left in the care of a 15-year-old "counselor-in-training" at one camp. It was testified that the 15-year-old "used a hoe handle as a bat to strike the eye of a camper and blind him." The parents of the child were ignored by camp authorities for eight months. Only when the parents filed suit did the camp file a report with the state health department. The law requires that a report be filed within two days—but there is no penalty for late filing.

The testimony went on for hours. There is no space to print it all, and you wouldn't have time to read it all. But even without reading a word of it, we have long known the basic facts.

We know that children at camp have been beaten, injured, crippled, blinded, sexually molested, drowned and killed in accidents and fires. We know that there are no federal standards (and adequate state standards in only six jurisictions) covering the safety of buildings, electrical wiring, equipment or vehicles. We know that although some camp operators voluntarily maintain right safety standards, others do not, and no federal law requires them to adhere to any level of training or competence for their employees.

If there are no federal standards, how is a parent to know which camp is safe? The Youth Camp Safety Act has been studied, debated, pigeonholed, and studied again—all without affirmative action—for two chief reasons. Nobody likes to be regulated, and camp operators are not exception. More pertinent, perhaps, is this: camp owners are campaign contributors, and Congress has been catering to their wishes rather than to the wishes of the millions of parents who send their children to camp.

POSTSCRIPT

I'm reminded of George Jean Nathan's observation: "Bad officials are elected by good citizens who do not vote."

REFORM OF OUR FINANCIAL INSTITUTIONS

Mr. TOWER. Mr. President, the recent issue of variable interest rates notes by Citicorp has brought to public attention the low rate of interest offered to the small consumer-saver and the need to press for orderly, constructive and comprehensive reform of our financial institutions.

It is apparent that our present financial structure has become less flexible, unable to meet the challenges posed by a changing economic climate. Savings minded individuals are finding financially advantageous avenues which totally bypass our financial institutions. The situation is complicated for we must balance the interests of all participants in our financial system—savers as well as borrowers. Congress must face this dilemma head-on and resolve the conflict between consumer savers who are entitled to a fair rate of return on their savings and the potential adverse effects on financial institutions.

I ask unanimous consent that an editorial from the Chicago Tribune and an article from the Washington Post be printed in the RECORD to aid in clarifying the current situation and add that both follow recent editorials in the New York Times and the Washington Post calling for sound comprehensive structural reform of our financial institutions.

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

[From the Chicago Tribune, July 16, 1974]

SHORT-CHANGING THE SMALL SAVER

The proposal by two New York bank holding companies to offer small savers a new type of high interest investment has raised a vital, but too little discussed, question: Should small savers be forced to suffer financially thru low returns on their savings in order to generate low-cost money for home mortgages?

Tho never stated quite that bluntly, current national policy is that they should. Altho the intent is desirable—to provide reasonably priced financing for new housing, the result is unfair discrimination against the small saver.

Savings and loan associations and mutual savings banks are the main sources of home mortgage money, and the government has fixed prices to give them special treatment. S & Ls and mutual banks have been protected from price competition by government-imposed ceilings on what they can pay depositors, while the flow of savings money to them has been encouraged by allowing them a higher ceiling than that set for commercial banks. Laws have likewise held down the rates on mortgages.

Now, Citicorp and Chase Manhattan Corp., the holding companies that own the First National City Bank of New York and Chase Manhattan Bank, want to offer savers notes that would have an interest rate set 1 percentage point above the average rate on U.S. Treasury bills.

Citicorp has set an initial interest rate of 9.7 per cent on its offering, far above the 5.25 per cent paid by S & Ls and mutual banks on regular passbook accounts or the 7.5 per cent they pay on four-year certificates of deposit. Altho the notes would be sold in minimum amounts of $5,000, the thrift institutions nevertheless fear that the drain on their deposits will speed up. They fear especially that the idea may spread, or that the minimum may be reduced.

The thrift institutions regard the notes a scheme to get around the government's interest rate ceiling on banks. Since the notes are issued by the parent holding companies and not by the banks, the Federal Reserve Board says it can't block the plan.

But the Fed has urged a delay, and Sen. William Proxmire and Rep. Wright Patman have called for new legislation to limit such notes.

In response to Federal Reserve Board pressure Citicorp has extended the intitial redemption period to two years, after which the six-month periods would take effect. That makes the notes significantly less attractive.

Government maneuvers to restrict the options of small savers are not new. Last year the ceiling was briefly removed from four-year certificates, but the high-yielding CDs proved so popular that the government reimposed the ban—with the support of the S & Ls.

For years, Treasury bills were sold in amounts as little as $1,000, but the minimum has been raised to $10,000. Government opposition is said to have sidetracked a proposal by American Telephone & Telegraph to offer bonds in units as little as $100.

The effect of such measures has been to keep interest payments to small savers low and to block alternatives by keeping minimum purchases high. The small saver is thus locked in, while the rich and corporate savers are free to desert the thrift institutions for more fertile fields of investment.

Even in a free market, there would be some spread between the interest rates payable on small deposits and on large ones. But as the latter rates have risen to record highs, the spread has become far more than is fair, and funds have been flowing out of S & Ls and savings banks, thus making money for mortgages almost unavailable. The proposed notes, it is feared, would mean disaster.

But we can't see that the solution lies in efforts to extend controls and arbitrary restraints. It lies rather in the opposite direction. Usury ceiling have already been lifted in many states, including Illinois, and there is talk of variable-rate mortgages on which the interest charge would vary to reflect the rising and [one hopes] falling cost of obtaining deposits.

More attention should be given instead to the recommendation made in 1971 by the governmental Commission on Financial Structure and Regulation that interest rate ceilings be phased out. This would be fairer to small savers and would lure back many larger savers. If it should mean higher interest rates on mortgages, it would be better than having no money available at low rates. And the problem would at least be faced without making the small saver the victim.

[From the Washington Post, July 22, 1974]

"FLOATING INTEREST" NOTES

(By Philip Greer)

NEW YORK.—Sometime this week, probably on Wednesday, the parent company of First National City Bank will finally get its

new "floating interest" notes to the market. They were supposed to come out about two weeks ago, but it sometimes takes a while to scalp the smaller investors.

The notes will pay at least 9.70 per cent interest until next June and then the rate will float according to a formula tied to the rates on 90-day treasury bills. The notes are redeemable at par ($1,000 for each $1,000 worth of notes) in June, 1976, and at six-month intervals after that. In the meantime, they'll be traded on the New York Stock Exchange.

The notes have kicked up a lot of dust here and in Washington. Stockbrokers hate them because they'll draw off money the brokers are hoping to get back into the market. Thrift institutions fought them because they'll attract funds that those organizations say they need for mortgages.

The Federal Reserve and the Securities and Exchange Commission didn't know quiet what to do about them and Rep. Wright Patman quickly announced plans for legislation to ban them.

After some negotiation—a euphemism for making the notes less lush for investers—the notes are being allowed out for sale. Despite the changes that have been made, the public seems ready to gobble them up (with a minimum purchase of $10,000).

When the dust settles, it looks like the notes will be found to have some very attractive features, even for those who regulate banks. They'll also have some strong negative features, especially for those who are supposed to restrain inflation. On balance, people are apt to wonder why all the fuss was made in the first place.

On the positive side, of course, the interest rate is higher than any savings bank, although the notes are not insured by the government, as deposits are. The two-year holding period (unless you want to pay a broker's commission) takes some of the attraction out, but the return is still in a bracket usually reserved for larger corporations.

From an industry point of view, the notes will give the Citicorp $850 million it can be sure of keeping for at least two years. Banks all over the country have been taking in short-term money—through certificates of deposit and such—and using it to make long-term commitments.

When interests rates go up, the short-term money disappears and the banks have trouble meeting the long-term promises. The result is a "liquidity crunch" like the one many banks are struggling with right now. The banks need longer-term money and this could be a way to get it.

On the negative side, the notes are, plain and simple, a surrender to inflation, just as escalator clauses in labor contracts concede that inflation is a fact of life. The floating rate doesn't necessarily add to inflationary pressures, but it doesn't allow for any of the restraint that's needed so badly.

In short, the excitement generated by the notes seems too have been overdone. The key point is that they offer smaller savers a higher return on their money than they can usually get anywhere else and—to that extent—they can't be all bad.

TWENTY-FIRST ANNIVERSARY OF SMALL BUSINESS ADMINISTRATION

Mr. BIBLE. Mr. President, it is with pleasure that I call attention to the 21st anniversary of the Small Business Administration on this July 30. Since its origin in 1953, this executive agency has been of great assistance to millions of small businesses across this Nation.

This anniversary date is an important one. Time was when a 21st birthday symbolized full maturity. At 21, an individual lost youth status and became a legally competent citizen, gaining full responsibility before the courts. However, I believe the SBA has been a competent and responsible agency since its founding 21 years ago, for it has sought to benefit men and women whose watchword is individual effort—the hallmark of the 97½ percent of all American businesses who fall into the small business category. SBA's problems over the years have had to weather economic, political, and administrative storms, but the agency has moved steadily ahead.

The SBA has occupied a quasi-paternal position in the eyes of small business firms, for it has been devoted to giving helpful advice and direction and it has been looked to for financial aid.

With the signing of the Small Business Act as passed by the 83d Congress, President Eisenhower established the first independent, peacetime agency to devote itself exclusively to matters of interest to small business.

May we take this occasion on this 21st birthday of the Small Business Administration to salute Administrator Thomas S. Kleppe and his 4,000 plus dedicated employees for their efforts in behalf of the small business community of this Nation.

The Small Business Administration deserves special recognition for encouraging, developing, and helping to preserve small business. We hope that SBA's continued commitment to the needs of small businessmen and women will be energized by a reawakening of the vital role that small business plays in our free enterprise system.

MORE BUSINESS SUPPORT FOR AGENCY FOR CONSUMER ADVOCACY

Mr. PERCY. Mr. President, I have continually assured Members of the Senate that the proposed Agency for Consumer Advocacy is not some sort of monster dreamed up by consumerists to torment business. In fact the agency would operate to the advantage of responsible businesses, which are in the vast majority.

In the midst of Senate consideration of the bill, 10 sizable corporations and a number of individual and small businessmen have corroborated this belief in letters to Mrs. Virginia Knauer, Special Assistant for Consumer Affairs to President Nixon. As Mrs. Knauer stated:

> The myth of solid business opposition to (ACA) has been exploded.

Previously, three major corporations—Marcor, Zenith, and Motorola—had expressed strong support for ACA. Then came Hechingers—a large Washington-based retailer, specializing in hardware supplies. The 10 firms that recently affirmed support for the legislation include: Amfac Inc.; Kimberly-Clark Corp.; Connecticut General Life Insurance Co.; Alexander Hamilton Life Insurance Co. of America; Consumers United Insurance Co.; GRT Corp.; Maxwell Corp. of America; and, three companies under the same management—Condamatic Co., Inc., Dyna Day Plastics Inc., and American Sound Corp. Additionally, two Colorado bankers, Robert Hart of Boulder National Bank, and Walter Emery of the Bank of Denver, each expressed their personal support of ACA.

The nature of business support is typified by these comments by a top level official of the Consumers United Insurance Co.:

> Sound business practice must recognize the wisdom of hearing and heeding the consumer. . . . Obviously, it's to the mutual interest of the buying public and the business community to jointly sponsor a sound and just bill.

Mr. President, I ask unanimous consent that the full text of a statement by Mrs. Virginia Knauer, dated July 22, 1974, on the subject of business support for the Agency for Consumer Advocacy, be printed as part of my remarks.

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

> Virginia H. Knauer, Special Assistant to the President for Consumer Affairs, today announced the names of ten firms which support legislation to establish a Consumer Protection Agency.
>
> Mrs. Knauer's announcement is as follows:
>
> "A number of companies have come to me to express support for CPA, although I have not conducted a survey of business opinion on the legislation. I have received press inquiries for a list of their names. They include multi-million dollar manufacturers and retailers, insurance companies, manufacturers of phonograph records and tapes, and individual businessmen.
>
> The early leadership for business support of CPA came from Montgomery Ward and its parent company, Marcor. Two other well-known national firms—Zenith and Motorola—soon joined Montgomery Ward in its early public support of CPA.
>
> Today I am pleased to announce the support for CPA of the following firms: Amfac Inc.; Kimberly-Clark Corporation; Connecticut General Life Insurance Company; Alexander Hamilton Life Insurance Company of America; Consumers United Insurance Company; GRT Corporation; Maxwell Corporation of America; and three companies under the same management—Condamatic Company Inc., Dyna Day Plastics Inc., and American Sound Corporation. Individual businessmen, including bankers and some small businessmen, have also stated their support.
>
> Each of these companies and businessmen has had the foresight to see that creation of a CPA is not a threat to business. The men and women who lead these firms have displayed progressive management. They have the consumer's best interests in mind. The public has a right to know about their consumer policies. These firms represent the future, and we all should pay heed.
>
> I shall let them speak for themselves.
>
> Henry A. Walker, Amfac's chairman, said that as Amfac "recognizes the importance of having the consumer represented before regulatory agencies of the Federal government, it therefore supports in principal the underlying concepts embodied in the proposed consumer protection agency legislation currently pending before the Congress." Amfac, whose subsidiaries include Joseph Magnin, Liberty House—Hawaii, Liberty House—Rhodes, Fred Harvey and Island Holiday Hotels, has sales approaching $1 billion.
>
> Robert E. Freer, Washington Counsel to Kimberly-Clark, one of the nation's largest manufacturers of paper and cellulose prod-

ucts, assured me that his company, unlike many of its competitors, does not oppose the CPA bill although it has suggested a few minor amendments.

Connecticut General Life Insurance Company's director of government relations, William M. White, Jr., wrote that "the proposed mechanism is important to ensure that the consumer's voice and interests are properly considered."

Richard H. Headlee, president of another insurance company, Alexander Hamilton, said that "it is about time that the Federal Government began looking at the consumer—not as a monolithic man—but as more than 200 million individuals, each of whom needs an advocate within the federal bureaucracy."

A third insurance company, Consumers United, wrote, "sound business practice must recognize the wisdom of hearing and heeding the consumer. . . . Obviously it's to the mutual interest of the buying public and the business community to jointly support a sound and just bill."

Several tape and phonograph record companies and the chairman of the board of their trade association, the International Tape Association, have written me of their support. Frank S. Day, president of American Sound, Condamatic and Dyna Day Plastics, states that CPA legislation "will quite properly provide for more effective representation of consumers interests and the restoration of public confidence in consumer goods." GRT Corporation and Maxell expressed similar views.

Two Colorado bankers, Robert M. Hart of Boulder National Bank, and Walter Emery of the Bank of Denver, each expressed their personal view that there should be a representative of the public interest to speak on behalf of the public before regulatory agencies. A number of small businessmen have also voiced their support.

The significance of these statements of business support should become obvious. The myth of solid business opposition to CPA has been exploded.

AN ECONOMY IN LIMBO

Mr. HARTKE. Mr. President, President Nixon's economic message July 25 was bad news for the American people.

His solution for our economic ills was a larger dose of the policies—tight money and budget cutting—that have failed in the past and offer little hope for the future. We were also treated to an incredible exhortation to people to save money.

One fact we all have to recognize and state plainly is that the United States is in a recession. But the administration refuses to face up to this fact, as was made clear again yesterday by Presidential Counselor Kenneth Rush's testimony to the Joint Economic Committee.

At the start of the second half of the year, our economic difficulties are mounting. Commerce Department figures issued July 18 showed a continued decline in the gross national product—GNP is the chief economic indicator.) Now there is no doubt, we are in the throes of a serious recession with an accompanying decrease in production which only serves to shorten the supply of goods and to increase inflation.

The American people are inhibited from buying products at their present inflated prices, so consumer spending is down. People simply do not have the money, with real wages—the amount of wages after inflation is subtracted—down 8 percent.

Consumers and businessmen seeking loans are in trouble. The prime rate has gone up 37 percent since March and it will go higher before the end of the year. You cannot get a home mortgage in California without paying 10 percent interest—and, even at this rate, there is very little money available in the savings and loan associations to lend. Investors have placed their money into higher yield sectors of the economy.

One result of sky-high interest rates has been a decline in home construction. New home starts fell 11.1 percent between April and May. In fact, there were 38 percent fewer new homes being built in May of 1974 compared to a year ago, and there were even fewer construction permits being applied for.

Unemployment pervades our economy; 5,380,000 men and women are presently out of work. As the jobless rate increases, so do unemployment insurance payments. Unemployment compensation in April of this year was 50 percent higher than in April of 1973.

We pay a high price for inflation and recession. Not only do we pay more in the form of unemployment insurance, but welfare payments are also up as more and more families are forced to seek public assistance in order to receive food and clothing and pay for housing. Since 1970, aid to families with dependent children has almost doubled and supplementary security income (formerly old-age assistance) has also risen.

Mr. President, I ask unanimous consent that a table showing the increase in SSI payments to people in the State of Indiana for the first 6 months of this year, compiled by my staff from information supplied by the Social Security Administration, be printed in the RECORD at this point.

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

SUPPLEMENTAL SECURITY INCOME (S.S.I.) PAYMENTS TO INDIANA RECIPIENTS: FIRST 6 MONTHS OF 1974

January	$2,219,000
February	2,743,000
March	2,802,000
April	2,594,000
May	2,904,000
June	3,362,000

Mr. HARTKE. Mr. President, these figures make it clear that, as inflation has risen, so has the cost of welfare. The taxpayer gets hit from both sides. Not only does inflation mean higher prices at the food store and the gas station, but increased taxes to pay for the rising costs of welfare which were caused in the first place by inflation and recession.

What is the administration's answer to this nagging dilemma? A strong dose of "do nothingness," says Alan Greenspan, President Nixon's choice to succeed Herbert Stein as Chairman of the Council of Economic Advisers.

So the administration's answer is a do-nothing policy, but that will only breed discontent and frustration. Perhaps Mr. Greenspan's policy is an improvement over his predecessor's, who said that the real blame for inflation lies with the American people. If we had only been willing to accept more tax increases the administration wanted, he said, then we would not be in the mess we are in today.

But the record does not support this view. In 1968, the Johnson administration gave up its attempts to finance the Vietnam war without higher taxes and got Congress to pass the stiffest tax increase since World War II. That turned the Federal budget deficit into a major surplus in 1969. When Mr. Nixon came into office that year, taxes were cut, and they were cut again in 1971. Over the next 3 years, the Federal budget rolled up the heaviest peacetime deficits in our Nation's history.

The administration has embarked upon a calculated policy of having no policy to solve rampant inflation. This is a no-win policy which will only worsen our economic dilemma. I urge this administration to square with the American people and take up the reins of economic leadership.

Mr. President, recently there was an excellent series of articles on the economic situation written by Lee M. Cohn and published in the Washington Star-News. While I do not agree with many of the views expressed by experts Mr. Cohen interviewed, I think the articles will help set off that serious debate so badly needed to help us face up to, and try to resolve, the economic problems that beset us today. I ask unanimous consent that the text of those articles be printed in the RECORD at this point.

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

[From the Washington Star-News, July 15, 1974]

BIG BUST OR JUST STAGNATION?

(By Lee M. Cohn)

Business, squeezed for credit, curtails expansion and production.

Profits shrink, the stock market sags and bankruptcies spread.

Economic growth plods along at the brink of recession.

Unemployment rises by a million or more above normal levels.

Prices surge at triple the pace that used to be called "creeping inflation."

That's an *optimistic* forecast of the U.S. economy's performance in the next few years.

Quite possibly too optimistic, say a growing number of economists, bankers and businessmen, and even some government officials. They warn that the United States and the world may face a severe recession, with production dropping sharply, unemployment rising to post-Depression peaks, the financial system tottering, and inflation galloping almost out of control.

Few if any established analysts predict a depression like the disaster of the 1930s. But hardly any absolutely exclude the possibility of the worst economic bust since then—a true depression, not just the kind of recession Americans have learned to live with.

Interviews and public statements disclose that many of the people who run the economy and the experts who analyze it are more worried, even frightened, about the outlook than at any time in the postwar era. Anxiety is shaking the confidence of the general public, too, which could weaken the economy further.

No one with sound credentials had talked seriously about financial collapse and de-

pression for decades. Now knowledgeable people are quoting odds.

"The more I think about it, the more vivid it becomes," Arthur M. Okun of the Brookings Institution says. Okun, who was chairman of the Council of Economic Advisers in the Johnson administration, estimates that "the odds on the worst horror stories are no-more than one in 20."

While "the likelihood of a bust is not very strong," he says, "it's not a scenario you can laugh at any more."

Robert V. Roosa, partner in Brown Brothers Harriman & Co., a leading Wall Street banking firm, puts the odds at one in five. Roosa, undersecretary of the Treasury for monetary affairs in the Kennedy and Johnson administrations, adds grimly:

"In a tough world, you've got to choose what you think is the most probable course and accept the risks of acting on that judgment. That means I'm going to act on the four chances in five that the worst won't occur."

Alan Greenspan, a conservative business economist who has been asked by the Nixon administration to head the Council of Economic Advisers, says he sees "very major potential dangers, but we are so far outside the realm of historical experience that I don't know how to assess the probabilities.

"Take all this talk of a depression and social breakdown and the other horror stories. I can't present any solid reasons why these frightening scenarios cannot happen, which means they possibly could happen. This is the first time I've felt that way since the start of my professional career."

Milton Friedman of the University of Chicago, a leading conservative economist, predicts that "there won't be a major financial collapse." Many financial institutions are "vulnerable" and some are "technically insolvent," he says, but "the government will bail them out."

"I would let them go bust," he says grumpily, predicting that government rescue operations will aggravate inflation and cause other problems worse than a few financial failures.

Rather than worring about a bust, Friedman says, "my long-run concern is that we're heading toward stagnation (with) sharply reduced economic growth rates. The comparison is very close with what has been happening in England over the last 10 or 20 years."

Greenspan and Nathaniel Goldfinger, research director of the AFL–CIO, also say that, even if the United States avoids a depression, the economy shows ominous signs of catching what Greenspan called "the English disease."

While suffering no severe recessions, Britain since World War II has lost its economic vitality. Investment and efficiency have lagged, the country's competitive position has eroded and growth has been chronically sluggish. Analysts blame "stop-go" policies, which alternately pump up the economy and subdue it with austerity measures.

Paul A. Samuelson of the Massachusetts Institute of Technology, the liberal who won the first Nobel Prize in economics, warns that the United States and other industrial countries may face years of "stagflation"—an unhappy combination of subpar economic growth and inflation rates substantially above past norms.

Nixon administration officials scoff at depression talk—with some exceptions. Surprisingly, however, many of them paint a picture of prolonged sluggishness in the economy, with persistent high rates of inflation.

They use brighter adjectives than Greenspan, Friedman and Samuelson, but the basic forecasts are almost as bleak.

Treasury Secretary William E. Simon acknowledges that it is possible to write a scenario depicting a deep recession, but said "the probability of that is so low that I'm not considering it."

He proceeds to describe the path he hopes the economy will follow for several years—restrictive budget and monetary policies, economic growth below the long-term trend, a shift from consumption to saving, production below capacity, labor markets that are not too "tight."

Herbert Stein, chairman of the Council of Economic Advisers, says the economy must be held below its "highest possible track," operating with "some degree of slack," for three or four years.

Other key officials, talking less obliquely, acknowledge that the administration expects and is aiming for an austere period of several years during which business activity is subdued and jobs are somewhat hard to find.

With luck, a recession can be avoided, these sources say. But they contend that a mild slump must be risked.

Only by holding down the economy can the United States reduce inflation and prevent an accelerating price spiral, officials maintain. Even with this kind of restraint, they admit, progress in curbing inflation will be painfully slow.

Not all government officials are as emphatic as Simon in ruling out financial and economic trouble more serious than the United States has experienced since the 1930s.

Sidney L. Jones, deputy White House economic counselor, says he expects slow growth, not a sharp economic decline, but he admits:

"I've learned never to say never . . . You can paste all these things together and come up with a dour scenario . . . I can't deny that monumental financial difficulties could occur (but) I think it will take something a lot more fundamental than just some financial tensions on the periphery for the real economy to collapse."

Federal Reserve Chairman Arthur F. Burns warns that "hopes for the future of our economy have been shaken by the debilitating effects of inflation." Unless the price spiral is checked, he says, it could bring "mass unemployment."

Besides the financial and economic dislocations caused by inflation, he says, its continuation near current rates "would threaten the very foundations of our society (and could lead to) a significant decline of economic and political freedom for the American people."

President Nixon promised in January that "there will be no recession" in 1974, and administration officials cite current data indicating that the immediate threat of a recession probably has passed. They also predict confidently that the inflation rate will be lower at the end of this year than it is now.

Many independent economists concur. But they note that the administration is claiming less than its public statements imply.

The economy can avoid a recession this year and still bog down. Prices, while more slowly than now, still can surge at rates that used to be considered intolerable.

That is what most economists expect through the balance of this year. Furthermore, they fear that the economy will not improve much—and may deteriorate—beyond 1974.

Whether or not the administration's predictions for 1974 come true literally, knowledgeable analysts are more worried about erosion of the economy's strength and stability over the longer run.

The broadest measure of the economy's performance is "real" gross national product—total output of goods and services in terms of quantity, as distinct from the inflated dollar value.

Real GNP declined at an annual rate of 6.3 percent in the January-March quarter. This was the first decrease since 1970 and the sharpest drop since 1958.

Another decline in the April-June quarter probably would have put 1974 into the record books as a recession year. Although there is no rigid formula, a recession is defined conventionally as a decline of real GNP in two or more consecutive quarters.

Preliminary figures indicate that real GNP probably increased very slightly in the second quarter. If this expectation is confirmed, Nixon apparently has escaped the blot of a second recession in his administration, at least for the time being.

But a vigorous recovery is not expected, and there is a risk of another decline late this year or in 1975.

As usual, the administration's forecast is more optimistic than many, but still it is bleak. The administration started the year predicting that real GNP would rebound at an annual rate of more than 4 percent in the second half. Stein has scaled the forecast down to 3 or 4 percent, and now concedes growth may fall below that pace.

Date Resources, Inc., a leading forecasting firm, also is relatively optimistic, in a very hesitant way, about the short-run outlook.

DRI predicts real GNP will advance at annual rates of 3.5 percent in the third quarter and 4.1 percent in the fourth. Acknowledging its uncertainty, the firm also has issued an alternative forecast with gains of 3.2 and 3.3 percent.

Another major forecasting service at the University of Pennsylvania's Wharton School, predicts smaller increases of 2.4 percent in the third quarter and 2.7 percent in the fourth.

Walter W. Heller, chairman of the Council of Economic Advisers in the Kennedy administration, predicts an approximately flat path for output in the second half. Some other economists predict declines.

More significant than what happens through the rest of 1974 is the outlook for sluggish growth, at best, in the next few years. There is broad agreement that output will increase by significantly less than this country's long-term trend of about 4 percent a year.

With population and the labor force expanding, that means living standards will advance only slowly, factories will operate below capacity and unemployment rates will remain above normal levels.

The Wharton services predicts output will increase at annual rates of 2.1 percent in the first quarter of next year, 1.8 percent in the second quarter, 2.7 percent in the third quarter and 3.7 percent in the fourth quarter.

DRI, in the optimistic version of its forecast, predicts gains averaging 3.7 percent next year. Its hedge forecast is 2.6 percent.

Although the administration refuses to be pinned down on 1975 and later, officials say the fight against inflation will require years of "slack" in the economy. Less euphemistically, that probably means maximum output gains of 3 percent annually and unemployment between 5 and 6 percent of the labor force.

The traditional target for the unemployment rate is 4 percent, but some economists believe the practical minimum is 4.5 to 5 percent. The average rate since World War II has been 4.7 percent. Unemployment was at 5.2 percent last month and is expected to rise to 5.8 or 6 percent later this year.

Each percentage point in the rate represents more than 900,000 jobless workers.

Forecasts of sluggish economic growth and unemployment moderately above normal are at the optimistic end of the range. When pessimists ponder the threat of a recession, or worse, this is what they are talking about:

In the recession of 1957–58, the most severe setback since World War II, real GNP declined 3.5 percent. The unemployment rate rose to 7.5 percent. The post war peak of unemployment, 7.9 percent, was reached during the recession of 1948–49, which by most other

measures was milder than the 1957–58 slump.

The depression of the 1930s, the worst economic calamity in history, struck with two blows separated by a weak recovery.

Real GNP plummeted by 30.5 percent during the first four-year shock, from 1929 to 1933, and by 5.1 percent in the second phase, from 1937 to 1938.

Unemployment soared to 24.9 percent in 1933. That represented 12,830,000 jobless workers in a labor force much smaller than now. The unemployment rate was 19 percent and the number of jobless workers was 10,366,000 in 1938.

No one expects another disaster of that magnitude. But there can be no guarantee against an economic downturn so much more severe and prolonged than the postwar recessions that would be recorded as depression.

Even with subdued economic growth, which is supposed to curb inflation, rapid prices increases are expected. The administration hopes to slow consumer price increases to an annual rate of 7 percent by the end of this year, but officials concede privately that 8 to 9 percent may be more realistic.

Although that would be an improvement from the inflation rate 12.6 percent so far this year, by any other standard it would be a miserable performance for the U.S. economy.

Until the start of the current inflation surge last year, when consumer prices rose 8.8 percent, the biggest increase since the post-World War II bulge had been 6.1 percent, in 1969. A normal annual rise through most of the 1950s and the early 1960s was less than 2 percent.

Economists wrung their hands about the dangers of "creeping inflation" at 2 or 2.5 percent a year.

If the inflation rate can be trimmed to 7 or 8 percent late this year, further reductions will be difficult and will come slowly, Stein and other officials admit. Stein estimates "hard-core" inflation at about 7 percent.

Many economists fear that the slight abatement of inflation foreseen for the end of 1974 will be only a brief respite, followed by escalation to new record rates.

Galloping inflation, they warn, could collapse the financial system and so bring down the economy.

INFLATION: MAY GET WORSE

If you have nightmares about pushing a wheelbarrow full of money to the market for the week's shopping, like the Germans in the 1920s. Milton Friedman advises you to relax.

"Utter nonsense," says Friedman, the illustrious University of Chicago economist. "There isn't a chance in a million that we will get into hyperinflation."

But it would be a mistake to conclude that Friedman is optimistic about inflation. Indeed, he expects it to get worse—perhaps rising from 12 percent now to 14 percent by 1976 and even faster in later years.

The professor simply cannot stand imprecise use of the language, especially economic terms. By his reckoning, hyperinflation means price rises of at least 50 percent a month, or 600 percent a year. Cynical though he is about government bungling of economic policy, not even Friedman expects U.S. inflation to become that bad.

If "Hyper" is the wrong prefix, "super" may be the best description of current and prospective inflation here and abroad. That kind of inflation can:

Lower living standards and erode savings.

Discourage and distort investment.

Raise interest rates and tighten credit.

Create disorder in the banking system and financial markets.

Slow the economy's growth and push it into a recession.

Beyond the direct economic effects, severe inflation deepens distrust of governments and can undermine political stability. Public anger over inflation has toppled several governments abroad.

Many politicians believe inflation is hurting President Nixon with the voters more than the Watergate scandals.

Inflation as measured by consumer prices was held to less than 2 percent annually in all but two years from the end of the Korean war until 1966, when the inflationary impact of the Vietnam war bgan to be felt.

Consumer prices have soared at an annual rate of 12.6 percent so far this year, and only moderate improvement is expected, at best.

The Nixon administration started the year predicting that inflation would abate to an annual rate of 4.5 to 5 percent by late 1974. Officials were counting on an end to the huge rises in food and fuel prices, and an economic slowdown abroad to ease the pressure on prices of raw materials.

Food and fuel prices, which had accounted for the greater part of the inflation in 1973 and the early part of this year, have been more stable and in some categories have declined from the peaks. Food prices, particularly, have dropped sharply at the farm and wholesale levels.

Prices of imported crude oil are under downward pressure. Some other raw materials prices have dropped significantly.

However, retail food prices have reflected only a small fraction of the farm and wholesale reductions. Farm and wholesale food prices are starting to turn up again. Substantial increases may result from disappointing crops and from the demands of livestock producers for price-boosting actions by the government.

Although there is hope for slower increases and some decreases in food and fuel prices, inflation is bursting out in new directions, with accelerating price rises for a wide range of industrial and consumer goods. The administration has raised its official inflation forecast for late 1974 to 7 percent, and is bracing for 8 or 9 percent.

Independent forecasters generally line up with the administration's more pessimistic projections. Thus, the prospect is for a rate of inflation at year end far faster than previously had been considered tolerable. For all of 1974, inflation almost certainly will be in "double digits"—10 percent or higher.

Even if a few percentage points are chipped off the current inflation rate by late 1974, it is hard to be optimistic about rapid further progress. Inflation could remain in the 7 to 9 percent range, or could take off to new heights.

Escalation from normal inflation of less than 2 percent a year has been rapid.

Prices rose 3.4 percent in 1966, 3 percent in 1967 and 4.7 percent in 1968. President Lyndon Johnson, fearful of arousing antagonism to the war, refused at first to fight inflation by cutting federal spending on civilian programs or proposing tax increases. By the time he asked for a tax increase and pushed it through Congress in 1968, the price spiral had gained momentum.

That momentum pushed prices up 6.1 percent in 1969. Then, restrictive fiscal and monetary policies of the Nixon administration, which led to a mild recession, began to take hold. Inflation subsided to 5.5 percent in 1970 and an annual rate of 3.8 percent in the first seven months of 1971.

However, Nixon and the country wanted faster progress against inflation and a stronger recovery from the recession, so the President tried a short cut. He imposed price and wage controls and took other measures in August 1971 in an effort to avoid the inflationary consequences, at home and abroad, of policies to spur the economy.

Instead of using the breathing spell provided by controls to put the economy on a sound track, Nixon increased federal spending to stimulate employment and business activity as the 1972 election approached.

Nevertheless, controls seemed to be working as the inflation rate declined to 3.4 percent in 1971 and 1972. Encouraged by the record and apparently unaware of inflationary pressures bubbling below the surface, Nixon relaxed controls in January 1973.

Inflation exploded at an 8.3 percent annual rate in the first half of 1973. Rejecting the counsel of his top advisers, the President froze prices in June.

The freeze caused shortages and other economic dislocations, and it provided only a brief respite from inflation. Prices shot up at an annual rate of 22.8 percent in August, when the freeze was lifted, and have risen rapidly ever since.

Despite the freeze and the relatively tight "Phase 4" controls that followed, consumer prices rose 8.8 percent in 1973, the biggest spurt since 1947. The 1974 record will be even worse.

One big barrier to sustained improvement in inflation is the outlook for wages. Another worry is government policy.

The end of controls (except for petroleum) on April 30 probably will not make much difference directly in prices. Substantial increases to recoup costs would have been granted if controls had remained in force.

Decontrol is having a big impact on wages. Wage increases averaged a little over 6 percent during the control program, and did not keep up with the cost of living.

One representative measure of purchasing power, weekly earnings of rank-and-file workers adjusted to take account of rises in consumer prices, decreased 5.1 percent from April 1973 to April 1974. Social Security payroll tax increases took another bite out of purchasing power.

Now that controls are off, workers are pressing hard to catch up. Unions are demanding big wage increases and there are indications that non-union workers are doing the same.

"Workers and unions have been remarkably patient, but now there's bound to be a rising trend of wage increases and improved cost-of-living escalators," Nathaniel Goldfinger, AFL–CIO research director, says. "Higher wages are the basic way the average guy can protect himself."

Kenneth Rush, White House economic counselor, says, "The danger of a wage explosion is one of the real inflationary threats overhanging the economy."

Prevailing estimates of average wage increases through the rest of this year are in a range of 8 to 10 percent. If wages go even higher, the price inflation rate at year-end may exceed the current projections of 7 to 9 percent, and the nation would face "double-digit" inflation again in 1975.

Administration officials do not dispute the argument that workers would need big wage increases if price inflation continued at the recent pace. But they plead for self-restraint, even sacrifice, and urge workers to base today's wage demands on the prospect that the price spiral will abate, not accelerate.

"The important thing is not to bake short-term price movements into long-term wage agreements," Sidney L. Jones, Rush's deputy, says. "But if we stay at 10 to 12 percent inflation much longer, we would have a serious wage eruption."

Besides preaching restraint to workers, the administration is trying to stiffen management's resistance to big wage demands. In a slack economy, the administration warns, it will be hard for business to recoup excessive labor costs by raising prices.

The trouble with this strategy is that many businessmen do not believe that the administration, the Federal Reserve and Congress will resist the temptation to boost the econ-

omy by running big budget deficits and pumping up money and credit. If the government shifts to such inflationary policies, businessmen will be able to pass rising labor costs on to consumers in price increases.

Despite rhetoric about fiscal restraint, Nixon knowingly switched to inflationary budget policies to stimulate the economy in advance of the 1972 election. Now that the President has so many other troubles, businessmen doubt that he will stick to anti-inflationary policies, when Congress and the public start grumbling louder about the economic slowdown.

"Whoever does mean business (about curbing inflation) should do his best not to be interpreted as a bluffer," says William J. Fellner of the Council of Economic Advisers.

"I'm not fatalistic," business economist Alan Greenspan says, "but I can't be optimistic, on the basis of the record, that the right things will be done." (Greenspan has been asked by the administration to becomes chairman of the Council of Economic Advisers.)

Prof. Friedman is almost fatalistic. Right now, everyone is frightened by inflation and talking resolutely about restraint, he says, but if inflation drops temporarily to 6 or 7 percent at the end of this year, "there will be a sigh of relief."

"If inflation subsides and unemployment rises 6 or 6½ percent, there will be a crescendo of political pressure in Washington to do something about the slowdown," he remarks.

The government will yield to the pressure and shift back to stimulative policies, he predicts, warning that inflation may bounce back to 12 or 14 percent by 1976 and progressively higher rates later.

"The policies we follow lead to a ratcheting up of inflation," Friedman believes.

Jones, admitting he is stretching his optimism, says inflation may abate to 7 or 8 percent late this year and 6 or 7 percent in 1975. Then, he says, there could be gradual decline to 4 or 5 percent over a period of a few years—"but a lot could go wrong."

Treasury Secretary William E. Simon views 7 percent inflation as "only a way-station" leading very slowly to much lower rates, but Herbert Stein, chairman of the Council of Economic Advisers, is not confident that inflation can be kept from rebounding to new peaks.

"We could come down to 7 percent for a while, though we are not necessarily immune from the forces that have gotten some other countries into persistent double-digit inflation," Stein says. "If we escape this time it will not mean that we'll always escape. Our history is one of episodic upward movement of the rate of inflation."

After inflation subsides, he adds, "The question is whether we become impatient and pump up the economy again and get another wave of inflation before there's time to settle down to a lower rate."

Chances for reducing inflation below 7 percent are even more uncertain, he says, calling that rate "kind of a hard core" to which wages and interest rates are adjusting.

"It would be salutary to settle at 7 percent for a while so people can see it's not a one-way street," he suggests. "If we can avoid exceeding 7 percent, we can go on from there and see what we can do to get below that."

Inflation at 10 percent a year compounded would double prices in less than eight years, cutting the value of the dollar in half. At 7 percent inflation, it would take less than 11 years.

Appalling consequences can flow from that arithmetic.

Obviously, those on fixed incomes suffer most from inflation. They can buy less, so their living standards decline.

Most incomes in the United States are not fixed. Wages and salaries on the average rise every year. Social Security and welfare benefits are increased frequently, and some private pensions are adjusted.

Incomes from dividends, owner profits and rents tend to rise over the years, but they fluctuate with business conditions, which often are unrelated to inflation. Interest rates are flexible, so the income of creditors on new loans and investments generally keeps up with inflation, although interest income on old-low-rate investment falls behind when inflation accelerates.

Thus, most Americans usually are protected to a degreee from inflation. Inflation takes away some but not all of the increase in their incomes, and their purchasing power grows. But the average statistics hide millions of individuals whose incomes do not rise as fast as the price they pay, or who lose ground in particular years.

And in periods of very fast inflation, like the last year or so, most Americans fall behind.

Reactions to the loss of purchasing power vary among consumers. Some try to maintain their living standards by buying as many goods and services as before, which mean they must save less of their incomes or borrow more.

In a form of hoarding, some consumers and many businesses actually increase the quantity of purchases to beat expected price rises.

Advertising agencies are trying to exploit this psychology. Pan American World Airways, urging tourists to vacation in Europe now despite soaring fares, advertises: "A trip to Europe is either more expensive than last year. Or cheaper than next year."

The ad suggests that the tourist charge the fare on a credit card "and pay for today's vacation with tomorrow's dollars."

Speculative buying of commodities and the allure of gold—which Americans probably will be allowed to own by next year—are additional indicators of hedging against inflation. In its extreme form, hedging deteriorates into what economists call a "flight from money." When confidence in the future buying power of money collapses, consumers and investors scramble to acquire "real" assets with intrinsic value.

Panicky buying and speculation would aggravate inflation by bidding prices up. Beyond that direct effect, the fever would dry up the savings needed for loans and investments to keep the economy going. Ultimately, if money and financial assets were considered virtually valueless, the economy could break down into a barter system.

Economists see no signs that spending or speculation are getting out of hand. Indeed, there are some indications of retrenchment, which would help to curb inflation, but also could bring on a recession.

Consumers in the aggregate are spending more dollars than last year, but the quantity of goods and services purchased is lagging behind 1973. They also apparently are saving approixmately as big a percentage of after-tax income as in the recent past.

Spending is restrained partly because inflation has raised prices of essentials so high that less income is left over for discretionary buying. The average consumer has no choice but to buy less. The heavy burden of debt repayments is taking another big bite out of spendable income.

Consumers also are rebelling against high prices, notably for meat but for other goods, too.

White House economist Jones says this resistance to price increases may set up a "confrontation" in which producers would be forced to abandon the idea that they can easily increase prices to recoup rising costs and still sell all the goods they can turn out.

Perhaps the main reason for the consumer's conservative reaction to inflation is worry about the future of the economy. When hard times are anticipated, most Americans try to build up their financial defenses.

For example, some life insurance industry sources report that customers are increasing their coverage—a form of saving—in an attempt to compensate for the erosion of protection by inflation.

People save despite inflation, a leading economist says, because "even if the dollar you put aside now will be worth only 90 cents (including accumulated interest earnings) when you retire, it's better to have 90 cents than nothing."

This attitude will prevail unless the inflation rate becomes much faster than anything the United States has experienced, he believes.

The banking system and financial markets also are adapting to inflation, not yielding to it so far. Interest rates have soared as lenders have attempted to keep up with inflation, and some borrowers have been squeezed out.

Restraint on consumers and borrowers is the traditional prescription for fighting inflation. The question is whether the restraint will curb consumer and business spending enough to slow inflation, without pushing the economy into a recession.

That risk must be taken, because if inflation is allowed to accelerate it will lead eventually to a "bust" worse than a recession, a key government official says.

"It wasn't the government that ended inflation in Germany in the '20s," he remarks. "The economy just ground to a halt."

INTEREST—RATES AND FEARS UP

"If you want tight money to have an impact, it's got to be tight enough to scare people a little," Wall Street banker Guy E. Noyes says. "And when that happens you could scare them to death."

Wall Street and the rest of the money network here and abroad are very scared, suffering what probably is the worst case of financial jitters since the Depression of the 1930s.

While seasoned analysts believe the odds favor the financial system holding together, they predict tight money will cause "painful adjustments," a euphemism for a high rate of bankruptcies and an economic slowdown or recession.

They see risks of a grimmer outcome—financial disorder and a world depression that could bring political chaos.

Inflation is the root of the trouble. The Federal Reserve is trying to fight inflation by squeezing money and credit. The squeeze hurts borrowers and lenders, and is strangling some of them.

Besides general inflation, high oil prices are disrupting the international financial system.

These are some of the actual and potential consequences that frighten bankers, businessmen and economists:

Inflation makes lenders reluctant to tie up their money because they expect to be repaid with dollars of much lower purchasing power. They try to compensate for the anticipated erosion of the dollar's value by raising interest rates and may refuse to lend at all.

The Federal Reserve, fighting inflation, curtails growth of money and credit in an effort to restrain the spending that bids prices up. As credit supplies tighten, interest rates rise.

Banks encounter difficulties in obtaining money to make loans and to pay off their creditors and depositors. If a bank's withdrawals and repayment obligations bunch up and its assets cannot be turned into cash quickly, it may fail.

Savings and loan associations (S&Ls) and savings banks lose deposits because they cannot afford (and are not allowed) to pay interest rates as high as savers can obtain elsewhere.

Some borrowers cannot afford the high interest rates or cannot obtain all the credit they need at any price.

Businesses, unable to borrow fresh cash, cannot pay all their obligations and may go bankrupt.

The shortage and high cost of credit compel businesses to reduce purchases for inventories and curtail expenditures for plant expansion and modernization. As a result, current production and and long-term economic growth slow down.

Increases in payments for oil create huge international flows of money, weakening some currencies and straining the financial system.

"There are going to be some dislocations, and they're going to be painful," a top policy-maker says. "I don't know how we can control the inflation and get back to stability without some people getting hurt."

Albert H. Cox Jr., chief economist of Lionel D. Edie & Co., Inc., a leading forecasting and consulting firm, warns of a "perilous descent" from high inflation and interest rates.

The best hope for limiting the damage would be "a weak recessionary economy," Cox says. "One way or another, this thing is going to break (and) it would be a lot easier to come down from 12 percent inflation and interest rates than from 15 percent."

If the economy is relatively strong, interest rates and inflation probably will rise from current levels before breaking, he explains, while if the economy is weak, the peaks may not be much higher.

Inflation as such might not lead directly to a severe recession or a depression. Rather, inflation creates the conditions that gradually bring on an economic decline: distortions of income, spending and investment, high interest rates, tight credit, financial dislocations.

Instead of moving on a direct line from inflation to a bust, the economy could sputter, and perhaps mount brief recoveries, over a prolonged period before dropping.

Inflation and high interest rates go together.

If a lender is entitled to earn 3 percent for the use of his money—2 to 4 percent is a rough estimate of the basic interest rate in the United States—he wants to be repaid $1,030 at the end of a year on a $1,000 loan. (He will demand somewhat more to cover any unusual risks of default by the borrower.)

If he expects prices to be stable during the year, he will settle for 3 percent interest. When he is repaid, he will be able to buy $30 worth of goods and services beyond what he could have bought with his $1,000 at the start of the year.

But suppose prices rise 10 percent, so that $1,000 worth of goods costs $1,100 at the end of the year. With a repayment of $1,030, the lender could buy less that if he had spent his original $1,000.

To come out even, he would have to be repaid $1,100, requiring a 10 percent interest rate. To buy 3 percent more goods than he could have purchased for $1,000 at the start of the year, he would need $1,133, or an interest return of 13.3 percent.

Unless inflation subsides, interest rates may rise above present record highs. If inflation persists at the recent 12.6 percent pace, the lender will not be compensated by current interest rates of about 9 percent for home mortgages, 9.75 percent for high-grade corporate bonds and 8.25 percent for Treasury bonds.

Rates are influenced by what the lender expects to happen to inflation. If he expected 12.6 percent inflation to continue through the years until he is repaid, he might not invest at prevailing interest rates. He might insist on higher rates to offset the prospective loss of purchasing power.

Since lenders are investing at current interest rates, though hesitantly, they presumably expect less inflation before the loans come due, so that interest income will compensate them.

By some estimates, current interest rates are consistent with 6 to 8 percent inflation. If inflation slows to that pace, interest income at current rates will offset the loss of purchasing power and give lenders a fair return for the use of their money.

That indicates rates will not decline sharply if inflation subsides only slightly to the 7 to 9 percent range predicted by many analysts for late this year—unless there are good reasons to expect substantial further progress. Interest rates have already adjusted to approximately that kind of inflation.

Aside from the hope of slower inflation, money is loaned at negative rates of return mainly because interest rates are determined competitively by the supply and demand for credit. Inflation raises rates but does not set the exact levels.

Furthermore, alternative investments may not pay higher returns or may be riskier. Investors are better off lending at whatever rates they can get than letting money lie idle as inflation erodes its value without any offset at all.

The supply of money and credit relative to the surging demand is being squeezed by the Federal Reserve in its effort to fight inflation by restraining borrowing and spending. The Federal Reserve operates mainly by selling Treasury securities, which drains loanable funds from the banks. Through a complex web, the squeeze spreads through the economy, creating severe financial tensions.

Rumors spread intermittently that the Federal Reserve is relaxing restrain, but there is every indication that the money managers are keeping the screws tight—and may turn them still tighter.

Relaxation of restraint on the supply of credit by the Federal Reserve might lower interest rates temporarily, if lenders did not interpret the easing as inflationary. Any marked slackening of demand for credit, which could result from an economic slump, probably would pull interest rates down.

Money and bonds markets—and the stock market, which has been hit hard by tight credit—grasp at any indication that borrowing may abate.

Market interest rates declined a bit and the stock market rallied immediately after major New York City banks reported last week that their loans to business had risen less than the week before. Analysts caution, however, that one week's figures are not conclusive.

While rates will fluctuate in response to passing developments and market psychology, no sharp, sustained decline can be expected unless the economy slides into a recession or inflation subsides more than now is foreseeable. If inflation accelerates, interest rates will top current peaks.

The prime rate—the interest charged by banks on loans to their best corporate customers—has stabilized at least temporarily at a record 12 percent, after rising rapidly from 8½ percent in March. This rate is a sensitive indicator of trends in short-term interest rates generally.

Strict application of formulas pegging the prime to other rates would have raised it to 12½ percent or higher. However, some leading bankers hope demand for business loans will slacken soon, putting rates in equilibrium near current levels. They have deferred increases to see whether this expectation is confirmed.

Aggressive policies of banks have heightened their vulnerability to tight money. To increase earnings, they have pushed hard to expand lending in recent years, and they have been ingenious in tapping new sources of loanable money.

All of these innovative sources of money are short-term—banks can count on them only for brief periods. When money is tight, it is difficult and costly to "roll over" the obligations as they come due by extending them or finding fresh money.

If banks have trouble obtaining funds, they are compelled to hold down their lending. This is an objective of the Federal Reserve's anti-inflation campaign, but the squeeze could become a crunch.

When an over-extended bank cannot raise enough money to meet its obligations, it may collapse and drag down its depositors and creditors, including corporations and other banks.

Federal deposit insurance covers only the first $20,000 of each deposit, which leaves the bulk of the sensitive money uninsured.

Jitters about the banks have been intensified by the troubles of the Franklin National Bank of New York, which sustained big losses on questionable loans and foreign currency speculation. News of the losses provoked large withdrawals from the bank and made it almost impossible to roll over maturing obligations.

The Federal Reserve has kept Franklin National afloat by lending it more than $1 billion and persuading other banks to lend it money. Government officials are trying to arrange a merger of Franklin National with a strong bank.

Another recent shock was the collapse of the Herstatt Bank of Cologne, West Germany. At least a half dozen big U.S. banks face potential multi-million-dollar losses as a result of Herstatt's failure to pay off obligations.

These cases have made depositors and lenders suspicious of other banks, although government officials state that they know of no other major U.S. banks in similar difficulty. Because of the suspicions, some apparently sound banks outside the major money centers of New York and Chicago have been compelled to pay premium rates to obtain money, and some of them have not been able to obtain their full quotas.

The Federal Reserve is pledged, in its role as "lender of last resort," to protect sound banks caught in a squeeze, and Chairman Arthur F. Burns has promised to avoid a general "liquidity crunch"—a widespread inability to raise needed cash.

Nevertheless, Guy Noyes, senior vice president and economist of Morgan Guaranty Trust Co., warns that "it would take only a couple more (banks in trouble) to really get people shaken up so that a lot of banks would have trouble rolling over (obligations) . . . Whenever policy is tight there's a kind of brinkmanship."

Savings and Loan associations have special problems, which cause trouble for housing.

Unlike banks, which can be flexible, S&Ls have most of their money tied up in long-term home loans made years ago at fixed interest rates far below the present pattern.

Meanwhile, high interest rates on Treasury securities and many other kinds of debt issues are attracting savers, who are withdrawing deposits from S&Ls to switch to these investments. S&Ls with low earnings on old mortgages, could not afford to match these rates. Besides, federal regulations demanded by the S&Ls to protect them from competition, put ceilings on the rates they can pay.

S&Ls are borrowing heavily from the Federal Home Loan Bank Board, the industry's supervisory agency, to cover withdrawals and outstanding commitments for mortgage loans. They are making few new mortgage commitments, which is a big reason for the depression in housing.

Alan Greenspan, a business economist who has been asked by the administration to become chairman of the Council of Economic Advisers, believes the S&Ls are the most seriously threatened financial link.

Because of inflation, he says, interest rates are "rapidly approaching the crisis threshold beyond which the S&Ls would be hit by withdrawals amounting to tens of billions of dollars."

"The Federal Reserve's response," he predicts, "would be immediate and massive

support (which) would create such an expansion in the money supply as to doom all reasonable efforts at future restraint. Such a crisis might well put us beyond the scope of any conventional solutions to our inflationary problems within this decade."

Prof. Milton Friedman of the University of Chicago also predicts the government will "bail out" the S&Ls in an inflationary manner, probably by paying them about $10 billion of subsidies so they can raise interest rates on deposits to competitive levels.

High interest rates and tight supplies of credit are starting to restrain business activity, as intended, although there is no convincing evidence yet that the squeeze is curbing inflation.

At 6 percent interest, it may be profitable for a company to build up inventories and purchase new machinery and equipment. At 12 percent or higher the profitability may vanish, so planned outlays may be cut back.

The theory is that marginal spending will be weeded out, while the most profitable and therefore presumably most worthy expenditures still will be financed adequately.

Some categories of essential borrowers have been hurt badly. Electric utilities, especially, must pay sharply escalating interest costs on new bond issues. Investors are worried that utilities will not be able to repay debts because state regulatory agencies are lagging in raising the rates charged by utilities enough to cover soaring fuel costs.

Increasing numbers of corporations have postponed or canceled planned bond issues because of prohibitive interest costs. Local governments also have deferred bond issues.

Reluctant to commit themselves to paying current high interest rates over the 30 years of a typical bond, many corporations are trying to raise money temporarily through short-term borrowing, which means they must borrow more often.

This is not cheap or easy, either. Corporations traditionally borrow large sums of short-term money by selling commercial paper—a form of promissory note—largely to other corporations. It now is difficult or impossible for corporations with less than a prime credit rating to sell commercial paper.

Frozen out of the bond and commercial paper markets, corporations are lining up for bank loans. Many of them are rejected or their loan requests are scaled down.

Caution by lenders is sensible but some of them are forgetting that normal business risks must be taken, says Robert V. Roosa, partner in Brown Brothers Harriman & Co., a leading Wall Street banking firm.

If the squeeze gets much tighter, some analysts fear, many sound companies may be unable to pay their debts or finance operations. There could be a wave of bankruptcies, with debtors dragging down their creditors.

The Federal Reserve would act to relieve such a liquidity crunch, but once a crisis started it would be impossible to avert serious damage. And the rescue would require a sharp expansion of money and credit, fueling inflation.

Just the threat of a liquidity crisis is leading many corporations into defensive tactics. Unsure of their ability to raise cash, they are holding down purchases for inventories and reviewing planned outlays to expand and modernize.

International financial instability creates additional complications. Huge oil price rises are increasing the revenues of the oil exporting countires by perhaps $60 billion this year, and draining the same amount out of importing nations. The money flows are unsettling.

Most of the oil exporters cannot quickly spend all of their swollen revenues, so they are lending and investing the excess abroad. This money is flowing back to the oil importing countries, directly or indirectly. In effect they are buying the oil on credit.

This "recycling" of oil money may not go smoothly, however. The money will not be loaned or invested in exact proportion to the oil payments of importing countries. Poor countries, particularly, cannot compete for loans and investments, and could not afford to repay loans at market interest rates in any case.

International financial leaders are trying therefore, to redirect the oil money where it is needed. The outcome is in doubt.

Most of the oil money flows initially through the "Eurocurrency" market, a network of banks that accept deposits and make loans of dollars and other currencies issued ouside their borders.

The Arabs prefer to keep their oil revenues, mostly dollars, in short-term Eurocurrency deposite. To help importing countries pay for oil, Eurocurrency banks lend the Arabs' money mainly at intermediate terms of about five to seven years.

This pattern is risky. Sudden withdrawals of the Arab's deposits or defaults by the borrowers could catch the banks short of cash. The huge amounts of the money flows are straining the capacity of the Eurocurrency market.

Some analysts warn of domino-like bank failures. Since many of the Eurocurrency banks are affiliates of U.S. banks, virtually all of them deal with banks here, American banks could be dragged down by bank failures abroad.

There has been progress in managing the flows of oil money, however. The Arabs are starting to relieve the strains by lengthening the time of their deposits and diversifying their loans and investments. Increasing amounts of the Arabs' funds are flowing into the U.S. money and capital markets. Investments in U.S. Treasury issues are expected.

No Easy Economic Options

Government policy-makers, struggling to rescue the economy, have used up all the safe, easy options.

They can fight hard against inflation by holding the economy down, risking a recession or worse.

Or they can bolster the economy, risking an escalation of inflation.

President Nixon is trying to find his way along a third path—hoping that mild economic restraint will reduce inflation gradually, while still permitting moderate growth of production and employment. This compromise policy can be dangerous, too.

At best, it would bring several years of sluggish economic activity, with inflation persisting at a pace far above normal for the United States.

The compromise could misfire, pushing the economy from sluggish growth into a recession. And it may be too late for mild economic restraint to bring inflation under control.

"It's a tragedy that we've gotten ourselves to a situation where the only tradeoffs are terrible or more terrible," says Alan Greenspan, a conservative business economist who is in line to become the new chairman of Nixon's Council of Economic Advisers.

Greenspan favors stringent anti-inflation policies, with a tight federal budget and tight credit, despite his concern that severe financial dislocations might result.

"We don't have the alternative of a simple easy solution to bring ourselves back to noninflationary normality," he says. "We did have that alternative but it's been dissipated, lost as a realistic option."

Arthur M. Okun of the Brookings Institution, a liberal who was chairman of the Council of Economic Advisers in the Johnson administration, believes budget restraints should be loosened but endorses the Federal Reserve's tight credit policy.

Okun even considers the case for an extreme credit squeeze to get fast results in checking inflation.

"If we could have a controlled panic, we could wring out the speculative excesses," he says. "There would be bleak headlines for a couple of weeks, but we could have quick disinflation instead of hanging in there for two years with 6 percent unemployment.

"But that's playing with fissionable material. Setting off a controlled explosion is a tricky thing. I hope they don't try to fine-tune the panic."

Nixon's tone is reassuring, not panicky. Indeed, he sees economic problems as offering an opportunity to show that he can control events, despite the Watergate scandals.

Attempting to demonstrate his capacity to function, he is conducting well-publicized meetings with economic advisers, businessmen and others. He plans a speech to the nation on the economy next week.

The flurry of activity has yielded little substance, and has not overcome the impression that the administration is groping for economic remedies. Businessmen and economists complain that lack of leadership is undermining confidence.

Apart from the merits of economic policy arguments, Watergate creates doubts about the President's political resources for pursuing the policies he believes will work. It may be even more difficult than in the past for him to obtain congressional cooperation in controlling government spending and taking other action against inflation.

He did defeat a move by Senate Democrats to cut individual income taxes, but pressure for tax reductions may grow. And if Nixon decided a tax increase or other tough meaasures were required, his prospects would be dim.

Fearful of losing, he might avoid bold initiatives.

After experimenting with price and wage controls in the hope of escaping the inflationary consequences of big budget deficits and easy credit, the administration has proclaimed its return to orthodox policies for stabilizing the economy.

The slogan is "old-time religion," meaning curbs on deficit spending and on expansion of money and credit, which can fuel inflation.

The announced budget target is a $5 billion reduction of the $305.4 billion spending total and the $11.4 billion deficit estimated for this fiscal year, and a balance of outlays and revenues next year.

Federal Reserve policy aims at curbing expansion of money and credit in order to restrain inflationary spending by the public.

"We intend to deal with this old-fashioned disease with old-fashioned remedies for the simple reason that there are no new ones that work," Kenneth Rush, Nixon's economic counselor, declares.

"These are painful remedies and they take time. But we know they work . . . We will fight the inflation on the monetary and fiscal line no matter how long it takes."

Not all economists agree that fiscal (budgetary) and monetary restraint can help much to control the kind of inflation now plaguing the United States, unless the squeeze is so severe that the economic damage would be intolerable.

Walter W. Heller of the University of Minnesota, who was chairman of the Council of Economic Advisers in the Kennedy and Johnson administrations, sees wages as the main source of inflationary pressure from now on. Fiscal and monetary tightness can curb inflation resulting from excessive spending, but have little impact on wage settlements, he argues.

While "reasonably rigorous" fiscal and monetary policies make sense, Heller criticizes the "hard as nails" line taken by Federal Reserve Chairman Arthur F. Burns.

"King Arthur and his knights of the monetary round table have carried things too far,"

he objects. Tight credit threatens to make the economy so sluggish that productive efficiency would suffer—raising costs and aggravating inflation, he warns.

Heller favors "guideposts" for reasonable prices and wages, relying mainly on publicity to hold down excesses, but also providing government authority to roll back "flagrant" increases.

Otto Eckstein of Harvard University, who served under Heller on the Council of Economic Advisers, also contends that Federal Reserve policy should be relaxed because the risks surpass the potential benefits in checking inflation.

Eckstein says the computerized economic "model" operated by his forecasting firm, Data Resources, Inc., demonstrates the dangers of relying heavily on monetary and fiscal restraint. To slow inflation to 4 percent annually from the recent 12.6 percent, the computer estimates, the unemployment rate would have to rise from the current 5.2 percent to 8 percent and stay there two years.

That would be "overkill," Eckstein says, warning that "the financial system would collapse before we cracked inflation." The reasonable course would be to settle for slower progress against inflation to minimize the recession risks, he urges.

Administration officials disagree among themselves about the impact of budget restraint on inflation.

Treasury Secretary William E. Simon crusades for budget cuts as the heart of anti-inflation strategy. Roy L. Ash, director of the Office of Management and Budget, is skeptical about whether the planned $5 billion reduction can be achieved.

Ash, a rival of Simon, estimates that the cut if accomplished would trim only 0.1 percent from the inflation rate, although he concedes it would have psychological benefits.

The administration's ambivalent rhetoric raises questions about how resolutely Nixon will stick to restrictive policies.

Official talk about "painful" adjustments, "slack" in the economy, and labor markets that are not too "tight." They are reluctant to translate these generalities into explicit consequences of restraint: business failures, sluggish economic growth, unemployment.

They avoid specifying whose favorite spending programs will be sacrificed to austerity, and they reject the idea of tax increases.

Spartan declarations are leavened with assurances that things will not be so bad.

Rush, pledging to avoid a recession, says the policy is "moderation not asceticism," and Simon emphasizes that "we're not talking about slamming on the brakes."

Nixon claims that "the worst (of inflation) is behind us."

"We've had enough of rhetoric—it's destroyed our credibility," a key policy-maker warns.

Officials admit they are not sure the present spirit of determination can be sustained—in the administration or in Congress—if inflation abates slightly or unemployment rises substantially.

Because the public now is outraged by inflation, Simon says, "I'm finding for the first time the political will (to stick to restraint). Let's see how long it lasts."

The Federal Reserve faces the most immediate pressures to relax its tight policies. Banks and businesses are encountering serious difficulties in raising needed cash. Many analysts are worried about widespread bankruptcies and even a money panic.

Chairman Burns pledges that the Federal Reserve will not permit a "liquidity crisis," but experts disagree on how close the money managers have moved to the brink. Burns' tough talk suggests that he is prepared to take considerable risks before relenting.

Burns, who is legally independent of the administration, favors cutting the budget $10 billion, double Nixon's target. The Federal Reserve is skeptical about the President's fortitude. Some administration officials have accused Burns of passing the buck for the Federal Reserve's past failures to control inflationary growth of credit.

Nixon's record of vacillation makes economists wonder whether he will waver again. He has shifted back and forth between "free market" policies and controls. As recently as February, he was talking about contingency plans to increase spending if the economy weakened.

Frederic V. Malek, deputy budget director, said then that the President would "burst the budget" if necessary to prevent a recession.

If the administration, Congress and the Federal Reserve waver, hard-liners fear that inflation will get almost completely out of control. Increased federal spending and easier credit might temporarily relieve financial tensions and boost the economy, but would only postpone the reckoning and make the shock worse, they warn.

Unless inflation is checked it will accelerate, these advocates of stringent policies say. They predict faster inflation would break down the financial system and bring a severe economic decline.

Milder measures, if taken in time, could have put the economy on a sound track, but now it is too late for easy remedies, Greenspan says, warning against further temporizing.

"Going back about a decade, we've adopted a plethora of short term crisis solutions," he says. "They have helped in the short term but created longer-term problems—and now we find ourselves in the longer term. I've always worried about what would happen when the books eventually were balanced."

Even resolute pursuit of Nixon's brand of moderately restrictive policies may not be adequate, according to some economists. They advise a harsher crackdown, even at the risk of a recession.

Nobel economist Paul A. Samuelson of the Massachusetts Institute of Technology, and probably the majority of economists, reject this course as politically impractical.

The public no longer will accept high unemployment, Samuelson says, warning that excessively harsh policies would produce a backlash. "If you tighten money too much in the short term, political pressures will lead you to loosen money in the long term," he says.

Secretary Simon, too, argues that a recession must be avoided for strategic reasons, among others. If stringent policies push the economy into a recession, he says, it will be impossible to resist demands for stimulative fiscal and monetary policies, which would aggravate inflation.

Sidney L. Jones, Rush's deputy, notes the risks of frequent shifts of policy, whether toward ease or restraint. A steady course is best he says, because "if you combine volatile policies with volatile events you really get chaos."

International disruptions created by high oil prices are a growing influence on the domestic economic policies of the United States and other countries.

Faced with huge increases in payments for oil, many countries are compelled to reduce imports of other goods. At the same time, a natural response is to push hard to sell exports in order to earn the money to pay for imports.

This could lead to import barriers, export subsidies and trade wars of the kind that deepened the Depression of the 1930s.

In addition, there is an incentive to adopt tight fiscal and monetary policies. By suppressing the public's spending power, governments can hold down demand for imports and make more domestic production available for export.

Aggressive trade practices and restrictive domestic policies could lead to a cumulative, spreading world recession.

"That could happen if each country acted as if it were alone," Chairman Herbert Stein of the Council of Economc Advisers acknowledges. However, he says, there is every indication that the dangers are understood and international cooperation will prevail.

It would be self-defeating for all the oil-importing countries simultaneously to curb imports and spur exports in an effort to offset payments for petroleum. Instead, there is broad agreement in principle that most oil-importing countries must accept trade deficits and borrow to cover the gap.

Leading industrial countries have pledged formally to avoid new trade restrictions that would alleviate their oil payments problems at the expense of other nations.

Most of them have adopted restrictive economic policies to curb domestic inflation. But the restraints generally are moderate, which minimizes the risk of worldwide stagnation—but also may impede the international campaign against inflation.

THE DOMESTIC OIL INDUSTRY

Mr. BROCK. Mr. President, in November of 1973 the Congress authorized the Federal Government to interfere with the workings of the petroleum market in a manner unprecedented in peacetime. Of course, I refer to the passage of the Emergency Petroleum Allocation Act of 1973. Many felt that the extraordinary events of last fall justified such a draconian measure; others disagreed vigorously with this assessment.

However, I think that there is now broad agreement on the fact that the situation in the market for petroleum products has changed considerably since last fall. Domestic drilling activity is up. The embargo is over. Most importantly, the American people have responded to the call for energy conservation with tremendous cooperation.

With all these changes in the market since last fall, there is legislation pending which would extend the Emergency Petroleum Allocation Act for another 14 months. Mr. President, all of us here have seen the folly of trying to control the marketplace. The distortions and dislocations that Government controls cause have been well documented. Controls tend to subsidize one part of the industry at the cost of another.

Mr. President, I would like to share with my colleagues a letter I sent to Mr. John C. Sawhill, Administrator of the Federal Energy Administration, on the subject of more controls for the domestic oil industry.

I ask unanimous consent that it also be printed in the RECORD.

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

JULY 25, 1974.

Hon. JOHN C. SAWHILL,
Administrator, Federal Energy Administration, Washington, D.C.

DEAR JOHN: It is with increasing alarm that I view the movement to place more controls on the domestic oil industry. Already legislation has been introduced in the Congress which would extend the Emergency Petroleum Allocation Act thru June of 1976. In addition, there have been calls for the establishment of a price allocation system for crude oil.

I realize that these actions reflect a very

real concern for the competitive position of the independent sector of the industry. I share this concern and know that you share it as well. However, I seriously question whether the long run interests of the independents or the nation are best served by continued government intervention in the marketplace.

I know that many fear some independents will be squeezed out, once allocation is ended. This must not happen, and I believe that the Federal Energy Administration, the Federal Trade Commission and the Department of Justice possess full authortiy under existing statutes to prevent this from occurring. However, the preservation of the independent's share of the market should not be interpreted to mean the preservation of an absolute status quo. Individual businesses must be free to enter and leave the market as economic conditions dictate.

My mail reflects the division of opinion now existing among independents over the question of decontrol. But I firmly believe that once all the facts are known, independents, who have prospered in the market as a result of greater economic efficiency and business acumen, will unanimously support an end to all controls. I believe that it is the responsibility of the Federal Energy Administration to ensure that all the facts are presented.

Your public statements reflect your commitment to a free market. I share this commitment with you and urge you to do everything possible to see that the nation returns to a free market for oil as quickly as possible.

Very truly yours,

BILL BROCK.

MATERNAL AND CHILD HEALTH CARE

Mr. MONDALE. Mr. President, on July 25, I submitted testimony before the Senate Appropriations Committee about the urgent need for increased support of the maternal and child health program authorized by title V of the Social Security Act. Since the inception of the programs under this title, millions of American mothers and children have benefited enormously. These programs have made it possible for many expectant mothers to receive prenatal care for the first time; and for many youngsters to receive good health care in the crucial early years.

These programs are preventive in nature and are tremendously cost-effective and they deserve our maximum support.

Among other persons testifying before the committee was Dr. Fred Seligman, Director of the Division of Comprehensive Health Care, and associate professor of pediatrics and psychiatry at the University of Miami School of Medicine, Miami, Fla. He is also the chairman of the Association of Children and Youth Project Directors. His testimony outlines the success of these programs and details, as well, the need for increased Federal commitment in these areas.

I request unanimous consent that my statement and Dr. Seligman's statement be printed in the RECORD.

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

TESTIMONY OF FRED SELIGMAN, M.D., M.P.H. ON THE SUBJECT OF MATERNAL AND CHILD HEALTH APPROPRIATIONS

INTRODUCTION

Mr. Chairman and members of the Subcommittee on Labor, Health, Education, and Welfare. My name is Fred Seligman, M.D., M.P.H., Director, Division of Comprehensive Health Care, Associate Professor of Pediatrics and Psychiatry at the University of Miami School of Medicine, Miami, Florida. I am Chairman of the Association of Children and Youth Project Directors. In this capacity, I represent the staffs of the sixty-eight established Children and Youth Projects throughout the United States, the many such Projects just commencing, and the more than one-half million children and youth served by these programs. I am also representing the Maternity and Infant Care Project Directors.

My remarks are also on behalf of the Ambulatory Pediatric Association, a national association of more than 700 professionals primarily from the discipline of Pediatrics. This Association is the major organization that is concerned with medical education and health services to children in the outpatient setting.

Mr. Chairman, I appreciate the opportunity to present our views concerning fiscal year 1975 HEW appropriations for Maternal and Child Health Programs, and to present to you testimony concerning the status of the extraordinarily successful special project grants under Title V of the Social Security Act. We will limit our comments primarily to the appropriations relating to Sec. 516 of Title V.

The wisdom of the House Ways and Means Committee and the Senate Finance Committee in developing the special project grants of Title V, and the subsequent fiscal support of both this Subcommittee and the House Subcommittee on HEW Appropriations have had meaningful impact on the delivery of needed health services to more than one million pregnant women, infants, children and teenagers.

SUCCESS OF SPECIAL PROJECTS

The accomplishments of the special projects have been extensive and have been well documented. Infant mortality rates in geographical areas served by Maternity and Infant Care Projects have been significantly reduced. These Projects have been so successful in this regard, that it is easy to forget that in the not too distant past, there were target areas, especially urban, with inordinately high infant mortality rates. Children and Youth Projects have developed an extraordinarily successful reporting system that has documented decreasing costs of care per patient and significant reduction in rates of hospitalization.

BASIC TO A NATIONAL HEALTH PLAN

The special projects have emphasized comprehensiveness, quality control and evaluation. Cost benefits, community involvement and educational spin-offs have been great. The special projects have laid a framework on which a National Health Plan can be built. Indeed, many of the prominent legislative proposals for National Health Insurance now being considered by Congress build upon the existing Title V programs.

LINKAGES TO OTHER ORGANIZATIONS

As much as local options and funds have been available, the special projects have attempted to develop linkages to other health organizations. Special projects such as the Children and Youth Project at Brooklyn Jewish Hospital have developed services for adults utilizing neighborhood health center funding. The University of Miami program has a contractual agreement to provide health services to Headstart children. The Greensboro, North Carolina Children and Youth Project is one of many special projects that has received funds from the Department of Agriculture to operate a supplemental feeding program. Some special projects are linked to Title V University Affiliated Centers such as the University of Washington program in Seattle that specialize in mental retardation, handicapping conditions, and growth and developmental problems. Most special projects have linkages to Title V Crippled Children's Programs. Others relate closely to drug rehabilitation programs, community mental health centers and other specialized programs. Children and Youth Projects are linked to other Title V Special Projects—Maternity and Infant Care, Family Planning, and Neonatal Intensive Care Projects.

TRANSITION TO STATE AUTHORITY

This past year has been and continues to be a difficult time for the special projects, especially those projects which exist in highly urban states such as Florida, Illinois, Massachusetts, New York and Pennsylvania, because of the transition of special project grants from federal to state authority.

INCREASE IN NUMBER OF PROJECTS

Because of the transition of special projects to formula grants, the number of Children and Youth and Maternity and Infant Care Projects commencing July 1, 1974, have actually increased in number. All states will now be required to operate at least one of these projects, along with the three other special projects—namely, Dental Projects for Children, Intensive Neonatal Projects and Family Planning Projects. In fact, as of July 1, 1974, one hundred and sixty-two new special projects have been initiated. The number of new projects is actually greater than the some 150 special projects previously in existence.

HOLD-HARMLESS PROVISIONS

On June 30, 1973, mindful of the problems of transition of authority, Congress passed PL 93–53 amending Title V by adding a new Section 516. I need not remind this Subcommittee that PL 93–53, Sec. 516 (a) (1) (A) authorizes hold-harmless legislation for the population groups previously being served by special projects, and Sec. 516 (b) (1) (A) authorizes the appropriations to implement this, commencing in fiscal year 1975.

ADMINISTRATION REQUEST IS UNSOUND

Currently, the Administration has recommended $7 million be appropriated for the 1975 supplemental provisions of Sec. 516. Positively, the Administration has made available an additional $10.4 million of previously impounded funds solely, of course, for 1975. However, the Administration has not changed the 1974 supplemental funding recommendation. While $7 million in Sec. 516 supplemental funds was adequate in fiscal 1974, this is entirely inadequate in fiscal 1975. Firstly in 1974 States were not ready to implement the required new projects. Secondly, money was appropriated so late in fiscal 1974 that any sizable increases could not have been spent effectively or prudently.

In fiscal 1975 the situation is entirely different. Firstly a different group of States come under the hold-harmless provision of 1975.

Secondly, all States are now ready and able to commence the additional special projects required by law. A minimum of 250 special projects are required by PL 93–53. Thirdly, special projects already are deficit spending and awaiting your increased supplemental appropriations.

According to HEW estimates, estimates of which this Subcommittee is well aware, $36 million of additional funds have been deemed necessary to implement the hold-harmless clause in fiscal 1975. According to the Administration request this would leave a shortfall of $18 million to $19 million simply to maintain harmless those projects already in existence. Further, we disagree with the Administration's recommendation that the short-fall of the hold-harmless provision be alleviated by transferring $18 million from Sec. 503 (general funds) to Sec. 516. Yesterday, I was urged by our county manager's office to tell you today that the county cannot fiscally afford to support these programs, and further its support of what I say to you today.

LET'S IMPLEMENT THE SPIRIT OF PL 93–53

We strongly believe that this is not within the spirit and intent of PL 93–53. We do not advocate compromising the needed formula funds which are required for Sec. 503. We do not recommend robbing Peter to pay Paul. We judiciously ask that this Subcommittee appropriate the minimum amount required to hold-harmless the special projects already in existence. This amount is $19 million. Moreover, this level must be appropriated within Sec. 516 so that the money cannot be siphoned from the special projects for other use. Such action by this Subcommittee will underscore Congress's will and intent of implementing the spirit of PL 93–53.

EFFECT AT STATE LEVEL

This Subcommittee must understand what effect its appropriations will have at the State level. By increasing the appropriation level of Sec. 516, enough money will potentially be available to maintain the funding level of the already existing special projects. However, it does not meet State fiscal requirements of beginning the new projects required by law. The State of Florida—my home state—is an example.

Florida currently has in existence 5 Maternity and Infant Care Projects and 2 Children and Youth Projects. The money this Subcommittee may appropriate through Sec. 516 is intended to hold these 7 projects harmless. However, Florida must commence 3 additional projects, namely a Dental Project, a Family Planning Project and a Neonatal Intensive Care Project. Faced with inflationary demands for its Formula A and Formula B funds, the State of Florida must not only attempt to maintain its generalized maternal and child health programs at 1974 levels but find at least an additional $300,000 to commence these 3 new special projects. This money must come from Sec. 516, at the expense of the projects already in existence.

EFFECT AT THE LOCAL LEVEL

Our own Children and Youth Project at the University of Miami School of Medicine, received $765,000 in fiscal 1974. Because Florida must begin 3 new special projects and is faced with increased fiscal demands of operating its ongoing general maternal and child health programs, our project allotment for fiscal 1975 (made up of Formula A funds, Formula B funds and supplemental funds) is $571,000. This is a budget reduction of 25%, in spite of cost of living increases. Discounting already available Title XIX and other funds, we require an additional $350,000 to maintain our current level of service to more than 7500 patients. We have submitted budgetary requests to Dade County and the City of Miami. We have projected that if funds do not become available very soon, we will have to discharge 3000 patients, and not enroll an additional 1200 patients that we would otherwise be able to enroll during the next year. We will also have to terminate the services of approximately 30 professional and para-professional full-time equivalents out of our total staff of 80.

As of this date, Dade County and the City of Miami have not given us a definite response. The value of the program is unchallenged. The problem is how the City of Miami and the County of Dade can find the money necessary to subsidize our program and a second Children and Youth Project in Dade County as well as the Maternity and Infant Care Project which have also asked for local help.

EFFECT ON PROFESSIONALS

Rather than take hasty action and terminate staff and patients, the University of Miami program has been deficit spending since July 1st. We have chosen to do this because we do not want to destroy an already established organized and efficient delivery system. Additionally, we feel very strongly that once we lose our excellent and dedicated professionals, we will have great difficulty in replacing them. Title V special projects were initially developed in a manner whereby the professional could have faith in program longevity and effectiveness. These projects attracted professionals, many young, idealistic, and well-trained, who chose to go directly from training into public service rather than to go into the private sector. These programs attracted other dedicated and very capable professionals from the private sector who gave up lucrative private practices to serve the lower socio-economic sector of children with salaries only a fraction of private practice incomes. These professionals deserve your on-going support. I have appeared before your Subcommittee and your companion Subcommittee in the House almost yearly to speak on behalf of the mothers, children and families who are served by these programs and the professionals who work in the programs. These professionals do not necessarily depend upon these programs for economic survival or professional flourishment. However, lack of quick action by your Subcommittee will simply hasten their permanent departure to the private sector.

An exodus of qualified professionals, who do not have the confidence of program continuity, has already begun in special projects. Many special projects do not have project directors. Some professionals are transferring to those states that will be developing new special projects and do not have short-falls. Sponsoring institutions do not have the necessary financing to subsidize these programs. My own institution, the University of Miami can do no more than it already has, namely relinquishing its indirect costs of operation. Instead it has opted to allow this money to go directly for patient care. It is because of the unique support to our program by my sponsoring institution, by my pediatric department chairman, W. W. Cleveland, M.D., and by my dean, Emmanual Papper, M.D., that our Program uniquely survives, delivering exceptional quality preventively oriented health care. It is because of such unique support including invaluable Congressional support that I am one of the longest surviving Children and Youth Project Directors who is now in his sixth year as a Project Director.

OUR POSITION CONCERNING SEC. 516

We are aware that the House Subcommittee on HEW has approved a $19 million increase in Sec. 516 for a total MCH appropriation of $284 million. This however, does not take into consideration the requirement of beginning 162 additional special projects which will cut into the ongoing operating budgets of both formula and supplemental fund programs. Based on an estimate of $500,000 per new special project, $81 million will ultimately be required to develop the 162 special projects that the legislation requires. We propose phased funding, appropriating at least one-half of the total amount required in this fiscal year so that all projects can operate effectively. This requires an additional $40 million. This must be appropriated as supplemental funds within Sec. 516 so that States will be forced to utilize these funds for special projects which, after all, is the intent of the legislation. Project directors are fearful, that unless adequate funds are made available through Sec. 516, the special projects will be compromised. States have first made sure that generalized ongoing maternal and child health programs be given first dollar for program operation. Maximizing the supplemental appropriations in Sec. 516 would be the major way to protect against this event. This would also allow the States to reach as close to their 1974 appropriations as possible, even though the hold-harmless legislation is based on 1973.

So that States would have adequate funds to operate already existing general programs we advocate an additional $10 million in Sec. 503 for general maternal and child health programing, an increase of $10 million for Crippled Children's Funds, and an increase of $6 million for maternal and child health research and training. This would be a total maternal and child health Title V appropriation of $350 million. This is consistent with the dollar figure that Senator Walter Mondale has indicated to me that he will recommend to this subcommittee when he appears before you at a later date.

ADDITIONAL RECOMMENDATIONS

We wish to additionally share with you our concern for the gradual deterioration in the quality and quantity of Maternal and Child Health professional staff, both on the Federal and Regional level. Maternal and Child Health which like Family Medicine focuses on the entire family with, however, an emphasis on prenatal, natal and child developmental stages, is a specialty that requires specialized knowledge and a unique approach. Having single "MCH focal point individuals" who are frequently non-physicians at the Federal and Regional level is not adequate. For example, the turn-around time in communications between our project and the Regional Office in Atlanta has increased threefold.

Further, since PL 93–53 is based on 1973 appropriation levels, we wish to point out that clarification is needed so that the 1973 level is calculated on the 1973 annualized budget rather than the fiscal year budget. Florida, for example, received more than $1/2 million of funds during fiscal 1973 from fiscal 1972 monies. To not include this amount is arbitrarily depriving and being unfair to certain States.

We thus propose that the hold-harmless clause be based on annualized 1972 budgets and not on fiscal 1973 budgets.

CONCLUSION

Mr. Chairman, the Association of Children and Youth Project Directors have fought continuously year by year for the survival of these programs. Many of us have spent inordinate efforts in maintaining financial solvency rather than spending our time developing even stronger program operations. We seek and need your support. We ask you to appropriate not only the additional $19 million—as recommended by the House—required to hold-harmless the special projects already in existence, but also to appropriate an additional $40 million in Sec. 516 for a total supplemental appropriation of $65 million so that new special projects can be started, and in this manner the already existing projects can be held harmless. We also request minimal increases in other program support with a total Maternal and Child Health funding request of $350 million.

All of us at the operational level wish to once more move forward in our mission of providing quality services to low income mothers and children. We ask you to appropriate sufficient funds to allow all Maternal and Child Health Programs, general and special, in all states, urban and rural, large and small, to maintain the delivery framework that has been developed, so that we can ultimately merge into a Comprehensive National Health Plan.

We are in great desire of this Subcommittee's continued commitment to maternal and child health. This is urgently needed. This can be accomplished by immediate affirmative action by your subcommittee as we have recommended. Time is just as urgent as the level of funding. Unless your Subcommittee recommends quick affirmative support, programs like ours at the University of Miami will have to drastically curtain operations. If we continue at our present rate of deficit spending, we will not have enough funds to survive the entire fiscal year.

Thank you.

TESTIMONY OF WALTER F. MONDALE

Mr. Chairman, I appreciate this opportunity to testify before you on the 1975 appropriation for the maternal and child health programs authorized by Title V of the Social Security Act.

For several years I have taken a special interest in these programs because I believe they are among the most successful and cost-effective that Congress has ever created. They meet a clearly demonstrated need with a modest appropriation; and they form a strong nucleus for a future child health care system in this country.

Child health is rapidly becoming a national scandal. A recent network television show and a series of articles which appeared in "The Reader's Digest" have brought to the attention of the public what many of us have known for years: We have the technology to save the lives and preserve the health of millions of American mothers and children . . . but we lack the commitment necessary to get the job done. What I find shocking is that even when Congress sets up the programs—such as maternal and child health and the early screening program under Medicaid—bureaucracy and a skewed system of priorities prevent their full implementation.

This subcommittee has been most generous in supporting such programs. Despite the lack of commitment by the Administration, Congress has voted increased funding for Title V in recent years. Many mothers and children and many national organizations are depending on your continued support now. The American Academy of Pediatrics and the National Council of Organizations for Children and Youth are among the groups which support my testimony here today.

The first point I'd like to make is that there is a need not only to continue, but to expand the maternal and child health programs.

For example:

Despite our advanced technology, 13 nations have lower infant mortality rates than the U.S.

A recent HEW study of 40,000 households—including middle class families—found that 29 per cent of the children had not seen a doctor for a year.

An estimated 12 million children in this country don't see a doctor in the course of a year.

The U.S. Center for Disease Control reports that only 43 per cent of pre-school children in inner city areas were immunized against polio; only 55 per cent were immunized against measles, diphtheria, whooping cough and tetanus.

It is estimated that 200,000 children are born blind or deaf, or with muscular dystrophy or impaired hearts—as a result of inadequate prenatal care or care at birth.

We know that the existing maternal and child health programs do work. They get at exactly the types of problems I mentioned above. In some areas, the results have been phenomenal:

In the maternity and infant care project in Baltimore, the infant mortality rate has decreased one-third in 8 years—from 30 deaths per 1,000 live births in 1964 to 20.4 in 1972.

Statistics on one Florida county's program show that infants served by the maternity and infant care project had a 70 per cent lower average mortality rate than those who were not in the project.

Youngsters served by children and youth projects have drastically reduced their rate of hospitalization—from 7.7% for the caseload in 1968 to only 4.1% in 1970.

I mention the reduction in hospitalization rate because it points up to other important reasons for increasing support of maternal and child health programs.

First, these are preventive programs. Children who receive good prenatal care and good medical care in their early years are healthier adults. The Academy of Pediatrics estimates that 10 to 20% of all youngsters in this country suffer from chronic handicapping conditions. We know that these are conditions which seriously hamper an adult from participating in our society—and often from earning wages necessary to support himself and his family.

Yet the Academy also estimates that at least ⅓ of these handicapping conditions could either be corrected or prevented by appropriate care during the pre-school years. Comprehensive care through age 18 would prevent up to 60% of these conditions.

The children and youth projects have further demonstrated that good health care is one of the best investments we can make. Hospitalization, of course, is the most expensive component of medical care in this country. Reduction in hospital admissions means a reduction in medical costs.

At the same time that these projects have reduced the hospitalization rate, they have also reduced the cost of maintaining the health of the children involved. The annual average per capita cost of caring for a child in these projects was only $130 in 1973. This is down from $200 per child in 1968; and compares with a cost of $301 paid by the government for each child who receives care through the Medicaid program.

This cost effectiveness runs through the various efforts carried out under Title V. One study shows that in one Baltimore community alone, an estimated $100,000 was saved by reducing the rate of rheumatic fever—and subsequent hospitalizations—in the target area.

Despite the cost effectiveness of the maternal and child health programs, inflation has taken its toll. As I am sure you know, medical costs have gone up 35% in the last seven years.

In the state of Washington, the budget for crippled children's services was increased by 29.5% in 1973 from state and Medicaid contributions. But, according to HEW, "no significant increase is expected in the number of children served because of the rising costs of medical and hospital care."

If these programs are not provided with increased funds, they will find it impossible to continue providing quality care to the mothers and children they serve now, and there will be no funds to develop programs in emerging areas of concern such as care for infants of drug-addicted mothers and Sudden Infant Death Syndrome.

A survey by the Academy of Pediatrics highlights some examples of the effects of funding shortages:

In New Mexico, services were cut back as of March to cover emergencies only,

In Washington, case loads are limited due to increases in costs; and the program lacks resources needed to care for catastrophic or long term handicapping conditions,

In Montana, surgery for 20 children—including 5 with cardiac conditions—has been postponed;

In several states, care is simply not provided for children with cardiac problems or malignancies.

For all of these reasons, I come before you today to request that the Title V programs be funded at the level of $350 million in 1975. I am pleased to see that the House has recognized the severe needs of the children covered by Title V and provided $284 million—an increase of about $40 million over the current level—in its recommendation.

The request I put before you today is designed to work toward several goals:

1. Combatting the inflation which is eating away at the effectiveness of existing programs,

2. Providing support for the statutory requirement that, in 1975, each state develop a program of projects in five areas—maternity and infant care, children and youth, dental care, intensive newborn care, and family planning,

3. Providing support for the statutory requirement that children and mothers previously cared for under the special project authority will continue to receive care even though funding will now be channeled through state health departments,

4. Maintaining and strengthening an existing child health delivery system which can be integrated into whatever form of national health insurance Congress approves.

I would recommend to the Subcommittee that the $350 million be apportioned among the various Title V programs as follows:

$210 million into Sec. 503, the formula grants,

$25 million into Sec. 516, which would assure that all states maintain funding at least at the 1973 level,

$77 million for crippled children's programs, to provide the care these youngsters need to prevent them from becoming dependent on public support later in their lives,

$28 million for research and training, essential elements of any effective health program.

The other $10 million would come from the funds impounded by the Administration last year and recently released.

Failure to fund these important programs would be a very short-sighted act on our part. Failure to care for the health needs of children will inevitably produce more unemployment, less tax money, and higher medical costs. The $350 million I am requesting today would be a step toward meeting the current need. Because I am so fully committed to these programs, I intend to work through the Finance Committee to expand the authorization at the earliest opportunity in the future.

Thank you, Mr. Chairman.

THE WORLD'S ECONOMY

Mr. JAVITS. Mr. President, Leonard Silk of the New York Times has written an excellent article on the problems of the world economy, which appeared in the New York Times Magazine for July 28, 1974. Mr. Silk traces the development of the alarming worldwide economic condition we now find ourselves in, with the threat of even worldwide economic crash now being taken seriously. Mr. Silk makes a number of proposals for worldwide cooperation which are most important. It is extremely important that the United States assert its leadership to prevent even the risk of a long, terrible slide backwards into world depression and economic nationalism. Mr. President, I ask unanimous consent that the article by Leonard Silk be printed in the RECORD.

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

HOW THE WORLD ECONOMY GOT INTO THIS MESS

(By Leonard Silk)

"The world has been slow to realize that we are living this year in the shadow of one of the greatest economic catastrophes of modern history. But now that the man in the street has become aware of what is happening, he, not knowing the why and wherefore, is as full today of what may prove excessive fears as, previously, when the trouble was first coming on, he was lacking in what would have been a reasonable anxiety. He begins to doubt the future. Is he now awak-

ening from a pleasant dream to face the darkness of fact? Or dropping off into a nightmare which will pass away?"

John Maynard Keynes wrote those words in 1930—and the nightmare proved to be all too real. Today, the world economy is again threatened with breakdown and disintegration. Monetary disorder afflicts the entire non-Communist world. Nations coming up against the interlocked threats of trade and payments deficits, inflation, energy shortages and unemployment are growing increasingly nationalistic in their policies. It was beggar-my-neighbor nationalism that brought on the debacle last time, for in the end the nationalism turned demoniac and aggressive in Germany and Japan. Such an outcome seems unthinkable today—as it did in 1931. The time has come to review recent economic history, whose chief lesson seems to be that we are again facing a choice between economic chaos and a difficult, unprecedented, peacetime collaboration among major Governments.

History does not repeat itself precisely. One of the great differences today from the world of which Keynes was writing in 1930 is the revolution in national economic policy fathered by Keynes himself—the use of government spending, tax cuts, budget deficits and the pumping of money into an economy to prevent deep depression. Every government, prodded by powerful political forces, has been using the Keynesian medicine for keeping employment at a high level.

An unwanted consequence has been a quickening of inflation, the worst in a generation. Throughout the industrialized world, including the United States and Canada, Western Europe and Japan, consumer prices rose by an average of 12 per cent in the 12 months ending in May, 1974. In Britain the rise was 15 per cent, in Italy 16 per cent. Japan has been boiling along at an annual rate of 23 per cent. One can find far worse rates in some of the developing countries—40 per cent in the Philippines, 47 per cent in Indonesia, 63 per cent in Taiwan and a horrendous 709 per cent in revolution-racked Chile.

In the United States, consumer prices climbed by 10.7 per cent in the 12 months ending last May. But the climb in American consumer prices accelerated to an annual rate of 12.6 per cent in the first half of this year, and wholesale prices shot up at an 18.2 per cent annual rate. Chairman Arthur F. Burns of the Federal Reserve Board warned that "if long continued, inflation at anything like the present rate would threaten the very foundation of our society."

A doomsday mood has been stealing into the thinking of a great many people—stockbrokers, small investors, gold speculators and many ordinary people watching the value of their savings, pensions and insurance policies erode. Even among sophisticated economic observers, worries have been growing that the inflation could end in a crash. Ashby Bladen, a senior financial executive of the Guardian Life Insurance Company says: "A return to either price stability or financial stability without an intervening crash appears to me to be practically impossible . . . And the longer the crash is postponed by continuing the inflationary process of excessive credit expansion, the worse it will be when it does come."

The threat of a crash is worldwide, and has been seriously exacerbated by the enormous deficits being incurred by oil-improving nations as a result of the quadrupling of oil prices after the Arab-Israeli war last fall. David Rockefeller, chairman of the Chase Manhattan Bank, has been warning that the existing financial system may be unable to stand the strain of the sudden transfer of tens of billions of dollars a year from oil-importing to oil-exporting nations. The International Institute for Strategic Studies in London regards the use of the oil weapon by the Arabs, Iranians and other members of the international oil cartel as the greatest immediate threat to world economic and political stability. The rich, industrial countries are threatened, and so are the oil-poor developing nations, such as India, Bangladesh and Pakistan.

How did the world economy get into this pickle? Can we get out of it? I believe that it will take extraordinary measures by the United States and other nations, working together—as they failed to do in the nineteen-twenties and thirties until the roof finally fell in.

A way must be found to achieve the kind of international cooperation that made possible the reconstruction of the world economy after World War II, the most devastating in history. But the United States can no longer call the tune or provide the bulk of resources to resolve the current crisis as it did after the Second World War. "It is no exaggeration," says Dr. H. Johannes Witteveen, the Dutch economist who serves as managing director of the International Monetary Fund, "to say that the world presently faces the most difficult combination of economic policy decisions since the reconstruction period following World War II."

That brilliant job of resuscitation is now taken for granted, but can anyone who in those days saw the grim shattered cities of Europe and Asia, the disease and famine, the desperate mood and the corruption of the people forget it? In the decades after the war, the world economy experienced the greatest upsurge of growth in all history. World trade revived, and the world monetary system was rebuilt as the United States deliberately incurred deficits in its balance of payments to feed dollars and gold out to the world. In effect, the United States was acting like the big winner in a poker game who knows that unless the poker chips are redistributed, the game is over. Those deliberately incurred American deficits made the best of sense, both for the United States and for the rest of the world. The concept of an interdependent world economy was no mere intellectual abstraction, but the basis for shared prosperity and growth.

The reconstructed world monetary system was founded on the strength of the American enonomy, on the strength of the dollar and on the deficits in the United States balance of payments. Therein lay a serious contradiction: A strong dollar and chronic deficits in the United States balance of payments would in time prove to be incompatible; either the dollar would weaken or the American deficits would have to be ended. There was a further contradiction: If the American defícts ended, the flow of dollars that was providing the monetary reserves for world economic expansion would also cease.

In fact, when the United States decided in the late nineteen-fifties that the reconstruction period was over, it turned out to be extremely hard to end the deficits. One reason was that the United States was reluctant to give up its role as leader of the non-Communist world. The 20th century had acquired the billing, at least in the United States, as "the American century." Both the Korean and Vietnam wars signified American determination to carry the "free-world's burdens" the equivalent of Britain's "white-man's burden" a century earlier.

America's persistent payments deficits were not due solely to its military actions and economic aid programs. Of growing importance, as the deficits went on year after year, was the overvaluation of the United States dollar in relation to gold and to other currencies. This hurt American exports and made imports, as well as travel and foreign investment, cheaper for Americans. So the migration of American business overseas went on apace, with corporations using abundant and overvalued dollars to buy up foreign assets, start branches and subsidiaries abroad, hire foreign labor and use other foreign resources to increase their worldwide profits.

Foreigners, in the midst of the dollar prosperity, were schizoid about the trend. Many, especially those in close partnership with the Americans, welcomed the growth that United States capital, technology and managerial know-how helped bring. But there was increasing concern in Europe about the inflation that the dollar inflow was also helping to breed. And there was growing opposition to the "American challenge" of economic and political dominance—and about the recklessness of American military policy. Vietnam particularly strained the political bonds between the United States and its European allies. It also sealed the doom of the postwar world monetary system that had been built on a strong dollar and fixed exchange rates between the dollar, gold and all other currencies. For Vietnam accelerated the outflow of dollars from the United States and, even more damaging, increased domestic inflation. President Lyndon B. Johnson unleashed inflation at home by his unwillingness to ask Congress either for a tax increase to pay for the Vietnam war or to cut his Great Society programs to make room for the war in the Federal budget.

President Nixon inherited the inflation—and eventually made it worse. After a year of trying to stop it by tight money alone, Mr. Nixon brought the country a recession. Finding rising unemployment politically intolerable—especially with the 1972 Congressional elections looming—he switched to a highly expansive fiscal and monetary policy aimed at restoring full employment. For political reasons, he announced—few politicians had ever made it so explicit—"I am now a Keynesian."

Under Nixonian management, the U.S. balance of payments deficit worsened. Dollars poured out of the country, and on Aug. 15, 1971, as part of the "New Economic Policy," Mr. Nixon slammed shut the gold window, refusing to pay out any more gold to foreign claimants in exchange for their surplus dollars. Nevertheless, overvalued dollars continued to gush out as expectations of what would once have been unthinkable—a dollar devaluation—grew. Finally, on Dec. 18, 1971, at an extraordinary monetary conference at the Smithsonian Institution in Washington, held amid the trappings and relics of the greatest achievements of American technology, the dollar *was* devalued by 8 per cent.

The object of the Smithsonian conference, from the American standpoint, was to devalue the dollar enough to produce equilibrium, or, if possible, a big surplus, in the American balance of payments. This would, it was hoped, restore American economic power and prestige; it would also save the "dollar standard," with the United States as kingpin of the world monetary system. For this reason the Nixon Administration was, somewhat paradoxically, eager not to "devalue the dollar" officially, but to make other Governments upvalue their currencies.

Logically, there would seem to be no difference between devaluing one currency and upvaluing others in relation to it—and indeed there is virtually none. However, there was one important difference. The dollar had been regarded as the fixed star in the world monetary system, the star around which all the other national currencies revolved. For the dollar to change its own value—to be devalued in relation to other currencies and to gold—would symbolize a radical change in the conception of the world monetary order, like the Copernican revolution in which the earth was no longer seen as the unchanging center of the universe.

After the Smithsonian devaluation of the dollar, no matter how much the Americans might insist that the dollar was still the fixed center of the world monetary system, the skeptics would go on saying, like Galileo, "But it does move." And in fact, after the Smithsonian agreement, United States officials themselves gradually accepted the new concept of a movable dollar.

The Smithsonian agreement—the "greatest monetary agreement in the history of the world," Mr. Nixon called it—was supposed to be a one-shot realignment of exchange rates that would preserve the fixed-exchange-rate system created at Bretton Woods, N. H., in 1944. However, the Smithsonian agreement failed to hit on a rate structure that would restore monetary stability. With inflation raging at differential rates, that was doubtless impossible. The Nixon Administration, in any case, made virtually no effort to defend the Smithsonian exchange rates. It practiced the doctrine of "benign neglect," smug in the belief that foreigners had no alternative to taking in more dollars unless they would be willing to further increase the value of their own currencies, which the United States still wanted them to do.

The impact of devaluation on inflation caught Washington and most economists by surprise. American economists tend to minimize the importance of foreign trade to the United States, since exports or imports constitute less than 5 per cent of this country's gross national product. But the dollar devaluation, combined with expansive fiscal and monetary policy, intensified inflationary pressures which price controls could barely suppress. Devaluation spurred domestic inflation in the United States, certainly in the short run, by raising the dollar prices here of internationally traded goods, not only those of imports entering the United States but also, and more important, those of all exportable American goods as well. Many American products suddenly looked like a terrific bargain to foreigners, and they rushed to buy—beef in Chicago, oil in Baton Rouge and paintings at Sotheby Parke-Bernet Galleries in New York. The impact on prices was dramatic. As Randall Hinshaw of Claremont Graduate School has found, the effect of devaluation was immediate on primary products, such as food and raw materials, but more gradual on the prices of manufactured goods such as automobiles and tractors, especially under then existing price controls. However, as the prices of such basic internationally traded raw-material "inputs" as iron and steel, copper, aluminum, zinc, lead and plastics have risen, so have the prices of autos, tractors and other manufactured goods. And when price controls were lifted, the prices of industrial goods soared.

Ironically, the devaluation of the dollar initially had a perverse effect on the United States balance of trade and payments. Economists had expected some lag, but it lasted longer than it was supposed to. Indeed, the dollar outflow quickened. The reason was the devaluation increased the dollar price of imports more than it reduced the *volume* of imports, especially as the American economy was expanding more rapidly and sucking in more imports. Simultaneously, devaluation cut the dollar price of American exports, causing foreign demand for cheaper American goods to boom; but the United States imposed export controls on soybeans and other agricultural goods, restricting the rise of its earnings abroad. Even more important, booming demand at home restricted the growth of United States exports. Hence the American trade position worsened in 1972, and dollars continued to flow overseas to cover the payments gap. The basic United States blunder was to think it could run a devaluation of the dollar without first slowing the economy. It did just the reverse—coupling devaluation with strong fiscal and monetary stimulus.

The fixed-exchange-rate system could not survive the continuing dollar outflow. In early 1973, there was a second dollar devaluation, amounting to 10 per cent, following a dramatic around-the-world flight by Under Secretary of the Treasury Paul Volcker. But instead of calming the foreign-exchange markets, it roiled them further. And in late February and early March, dollars began to flood into West Germany because the mark looked like the safest port in a storm. The German central bank took in over $3-billion a day, paying out marks to all comers in a vain attempt to keep the mark's exchange rate from rising. After dishing out more than $10-billion worth of marks, German monetary officials finally grew frightened of inflation and threw in the sponge. They stopped defending the fixed exchange rate between the dollar and the mark; so the mark floated upward, and the dollar floated downward.

The Bretton Woods fixed-rate system was dead; the whole world monetary system was afloat. But inflation was anything but dead.

The loss of respect for the dollar, the key currency of the world monetary system, brought on a flight from all currencies into anything precious and scarce that would hold its value in a time of monetary crisis—gold, silver, platinum and many other commodities. Overnight it seemed as though the Club of Rome's long-range forecasts of the exhaustion of world resources were coming true in a rush, with soaring prices the fever gauge of commodity shortages.

Accidents of nature fed the commodity inflation. One of the weirdest was the disappearance of anchovies off the coast of Peru. Why this happened is still unclear. One theory is that the cause was the 1972–73 invasion of a warm-water current called El Niño, which upset the ecology of the cold-water Humboldt Current, drastically reducing the supply of plankton and other nutrients in which the anchovies feed. Most marine biologists doubt this, pointing out that El Niño comes roughly every seven years—it had last arrived in 1957 and 1962—but had not earlier seriously damaged the anchovy stock. Did an influx of predators eat the spawn? Were the young fish blown into hostile waters? Nobody really knows. Whatever the explanation, as Morgan Guaranty Bank economists correctly stressed, Peru's anchovy catch fell from more than 10 million tons to 2 million tons in 1973, wiping out a critical part of the world's fishmeal supply, which is used to feed livestock.

Bad growing weather for cereals, the failure of much of the Soviet crop, the massive Soviet-American wheat deal—a key element in détente—exacerbated the commodity inflation. But the over-all inflationary trend was no fluke. All nations were in a simultaneous boom, and world demand was outrunning supply. The perception of rising prices was transmogrified, as inevitably happens when an inflation lasts long enough, into a public perception that paper money is losing value and is not worth holding. Speculators rushed from currencies into commodities. By October of 1973, world commodity prices had more than doubled from the start of the year. And then, with the outbreak of the Yom Kippur war in the Middle East, the Arabs launched their oil weapon against the West.

World commodity inflation had given the oil producers both the motivation and the opportunity to boost their prices sky high. The rising cost of imports to the Arabs, Iranians and other oil-producing states, the rapidly growing demand for oil, thanks to the simultaneous boom in all the major industrial countries, the disappearance of American buffer stocks of oil—all these factors gave the Organization of Petroleum Exporting Countries, which includes Saudi Arabia, Kuwait, Abu Dhabi, Iran, Libya, Iraq, Algeria, Qatar, Indonesia, Venezuela, Nigeria and Ecuador, the golden opportunity for a financial killing.

The Arab oil embargo, designed to induce Western powers to force Israel to yield to Arab demands, cut the world oil supply at the critical moment, threw the Western allies into disarray in a mad scramble for oil and paved the way for the fourfold increase in oil prices. The price in the Persian Gulf was jacked up from about $2.10 a barrel to $8 a barrel. That meant the greatest single financial coup in history—a $70-billion haul by the oil producers in a single year. In 1975, their extra take will amount to $90-billion. And, if oil prices hold, they will be taking in over $100-billion a year—year after year. The World Bank estimates that by 1980 the oil-producing countries' holdings of liquid surplus capital will total $400-billion. This would mean that just six years from now they will hold at least 70 per cent of the world's total monetary reserves.

The fantastic transfer of money to the oil-producing states has created an unprecedented shock for the world economy. That shock is, paradoxically, both inflationary and contractionary. The huge increase in oil prices and payments worsens inflation in the United States, Japan and Western Europe by increasing both living costs and costs of production. It puts powerful pressure, both direct and indirect, upon the industrial and the developing countries to increase their export prices, in order to cover their oil deficits. To be sure, high prices are bringing out more oil and curbing demand. There is now, therefore, some downward pressure on prices. The crucial issue is whether the international oil cartel will hang together, even if this means cutting production to hold up prices.

At the same time, the enormous transfer of funds to the oil producers can choke off consumption and productive investment in the West. The build-up of Arab holdings, and the huge deficits that are their counterpart, could cause a breakdown in the world monetary system.

Prof. Richard Cooper of Yale says it is as though the Shah of Iran, the King of Saudi Arabia and the others had levied an annual tax amounting to $70-billion a year upon the rest of the world. Such a tax increase, as modern economic theory teaches us, will have a contradictory effect on national economies unless the money collected is put back into the economies from which it is collected in the form of expenditures on consumer goods or capital goods. If the major share of "oil taxes" collected by foreign Governments is not respent or reinvested in production, it will choke off output and income in the oil-importing countries. Some nations—those that are the best investment bets—will receive major shares of the oil money back; that is likely to be true of the United States and West Germany. Others, less creditworthy, will suffer huge deficits; that is already true of Italy, and it could be true of many others. The nations of the West could fall into economic warfare, each fighting to reduce its own deficit, and blocking imports or depreciating its currency to do so. Competitive deflation could bring on a world depression. The most agonizing peril faces the poor, developing countries, whose markets would contract drastically.

For those nations caught with the worst deficits, there will be severe risks of defaults on their foreign obligations. This is precisely the Italian situation now. In the past two years, the Italians have borrowed more than $10-billion in the so-called Eurocurrency market, taking funds from syndi-

cates of private lenders on the credit of Italian state-owned utilities and other Government agencies. With the Italian balance-of-payments deficit running at a rate of more than $1-billion a month, Italy is having trouble raising more money abroad. Its gold reserves would barely last a year. If the Italians—and a few other governments with heavy balance-of-payments deficits—should default on their debts, some of the biggest and seemingly strongest private financial institutions all over the world would lose hundreds of millions of dollars, and the entire world financial system would be in jeopardy.

Once again, as in 1929–31, the world is facing the danger of a liquidity crisis, which, simply put, is the inability of financial institutions or governments to meet their current debts. Such a crisis, if it hit two or more countries simultaneously, could race like greased lightning through the entire world financial system. That was what happened in 1931 when the Austrian *Creditanstalt* failed. It was the breakdown of the world monetary system in 1931 that turned the sharp 1929–30 recession into the worst depression in history. Not even Keynes expected the nightmare that began in 1931. It is this kind of international catastrophe we must prevent now.

But how? There are many ways to do it, but the above account of how we got where we are today suggests the main elements essential to a solution:

First, the United States, Western Europe and Japan must recognize that they are all in the same boat, and must either work together or they will sink together.

The United States cannot dictate to the others; it does not have the power to do so, and it would only defeat its own purposes if it tried. What is needed now is genuinely shared leadership and the forging of a spirit comparable to that achieved in wartime—and to the reconstruction of the world after the last war.

Second, this cooperation must immediately take the form of preventing any single country, or its major financial institutions, from going under.

One of the reasons we in the United States are not already suffering from a major domestic financial panic is that our central bank, the Federal Reserve System, has been prepared to rescue any major financial institution that gets into serious trouble, as it has done this year in the case of the Franklin National Bank of New York. Internationally, we do not yet have a "lender of last resort." Some national central banks have met in Basel, Switzerland, to work out plans for rescuing endangered financial institutions, though not all central banks have joined the effort and it is not yet clear how far those participating are ready to go. The nations of the Western World and Japan should either create an international lending agency of last resort, or transform the International Monetary Fund into a true world central bank that can rescue major financial institutions and nations themselves from financial collapse.

Third, the world monetary system must be restored to equilibrium.

The most important single step toward that end would be a significant reduction in the price of oil, which would reduce the imbalance of payments between the oil-importing and oil-exporting countries. The oil-importing countries should develop a broad strategy to bring down the price, a strategy that should include: an effective conservation program to reduce the demand for oil; an accelerated program to develop other energy technologies; a warning that, if necessary, the United States and its allies are prepared to withhold trade and the managerial and technological skills the oil-exporting countries want for their own economic development; and a refusal by this country and its allies to provide arms if the oil-producting states persist in threatening Western economic stability.

But if the oil-producing countries are willing to work with the West for world stability and their own development, the United States and its partners should extend the hand of friendship to them. It should facilitate expansion of their trade and foreign investment, the "recycling" of oil dollars.

Fourth, the Western nations must avoid like the plague the beggar-my-neighbor policies that helped destroy world trade in the thirties.

Such policies broke the world into hostile trading blocs, including the nations that joined in Nazi Germany's barter and rigged-exchange rate deals and Japan's Asian Co-Prosperity Sphere. The Western nations must reinforce their liberal trading policies, banning both import and export controls. They must hold their markets open to one another and seek particularly to create markets for the surplus and distress goods of nations that get into severe balance-of-payments trouble.

The nations should also forswear resorting to competitive devaluations of their currencies aimed at gaining a trading advantage over one another. They must coordinate their fiscal and monetary polilces to avoid competitive deflations that could bring on world depression. The Organization for Economic Cooperation and Development (O.E.C.D.) provides a forum for the joint review of national policies; this process should be strengthened to ensure that world employment and trade are mutually sustained.

While the world monetary system remains chaotic, it would be madness to try to repeg exchange rates; floating rates have reduced the massive money flows from one currency to another that propagated world inflation. In time, the reduction of those money flows should help to bring world inflation under control and enable exchange rates to stabilize. But the nations must work toward stability; a "great leap forward"—or backward—could be disastrous.

Fifth, nations must resolve to check their domestic inflations, controlling the excess claims of special-interest groups that are its root cause.

Inflation, while communicated internationally, originates basically from domestic sources. This is one reason why rates of inflation vary so much from country to country. There is no monetary formula or technical solution that will provide Governments with the political courage and the economic skills to reduce the exeessive demands that propel domestic inflation. Governments must resist the multitude of special-interest pressures that distort or waste resources—as in the multibillion-dollar military programs which exacerbate inflation and, even more ominously, increase the danger of arms races and war itself.

Under the sway of Keynesian economic theory, inflation has been regarded by most contemporary economists as a "technical" problem resulting from a gap between the excess demand for all goods and services and what the economy is capable of producing at existing prices. The basic remedy has been to close that inflationary gap by reducing total demand, whether by tax increases, cuts in Government spending or by making less money and credit available to the private economy.

It has become clear that the problem of stopping inflation is not technical but political in the large, systematic sense. Inflation is a consequence of the way massive, organizational, pressure-group economies operate. The military-industrial complex is only the most celebrated example of the special interests which capture a huge share of national resources and give less productivity in exchange. Other groups that have won special benefits and protection from Government—whether in the form of subsidies, huge appropriations, tax breaks, tariffs, import quotas or other rules limiting foreign or domestic competition—include the oil industry, the maritime industry, civil aviation, the highway-building industry and its supporters, dairy producers, wheat farmers, cattlemen, steel producers and textile producers. Labor unions fight for a growing share of the national pie partly by backing the demands for special favors and protection of the industries that employ them and partly by waging side-contests with managements for a bigger slice of the take.

The pressure-group economy not only breeds inflation but biases national choices on *what* is produced and by whom, and how income is distributed. Political power shapes the national use of resources and has a major influence on who gets what. This may be the major long-run lesson of that political fiasco whose code name is Watergate.

An effective program against inflation must be one that faces up to the necessity of curbing the power of the special interests and removing their corrupting influence on Government or, the other side of the coin, curbing the efforts of Government officials to invite bribes in exchange for favors as a means of consolidating political power in a corporate state. The old-style, laissez-faire capitalism is dead. Yet the mixed economy—that is, the mixture of Government and private interests that has replaced it—needs better methods of harmonizing competing group pressures in a noninflationary way and of guiding the economy to serve broad social needs such as protection of the environment, development of crucially needed energy, and provision of medical care, education and other vital services.

Specifically, this nation and other capitalist democracies need an incomes policy, a means of regulating the growing income claims of contending groups, together with their access to money and credit through the banking system. In periods of monetary tightness and very high interest such as the present, the inequities of only general controls on money and credit becomes obvious, as the most powerful financial groups drain funds away from the least powerful.

Similarly, this nation and many others need more effective and democratic ways of planning their long-run social and economic development. Increasing the supply of resources, human and material, and in the proportions needed, is essential to curbing inflation in a way that will not require periodic bouts of recession, depression and high unemployment.

In an increasingly integrated world economy, such programs need to be international and not merely national in scope. Yet the time for supranational government is not yet. The fundamental decisions needed to get the world through the current economic crisis, which could become a world political crisis as well, still must be taken at the national level. Is such an effort to restore world economic order politically feasible and realistic? It had better be. The potential tragedy of the moment is that all the Governments of the major democracies are in a weakened state—weakened in large degree by the socially and politically debilitating effect of inflation itself. And the crisis of leadership and moral authority is perhaps greatest of all in the United States, on which any coordinated action program among the Atlantic nations and Japan must still depend. We know what we must do; the issue now is whether we have the will and the unity to do it.

CHILD AND FAMILY SERVICES

Mr. CLARK. Mr. President, there are a number of domestic priorities in this country which tragically remain unmet,

and one of the greatest of these—which is growing daily—is the need for enough adequate child care facilities.

Neither women nor children in the past have been in a powerful enough economic or political position to significantly affect national priorities, and so, in the past, their needs have been largely neglected. The Congress attempted to remedy the deplorable child care situation in this country earlier in this decade by approving a comprehensive child development and family services bill, but this vital legislation was vetoed by President Nixon.

The need for good child care facilities will continue to increase in the decade ahead because of the accelerating trend in the employment of mothers and the increased emphasis on providing child care services for welfare mothers who want to work. As a result, the need for expanded family services is greater than ever. I am pleased to cosponsor the Child and Family Services Act of 1974 (S. 3754) introduced in the Senate earlier this month by Senators MONDALE and JAVITS.

This important legislation would establish and expand children and family service programs, build upon the experience of Head Start, give special emphasis to preschool children and families with the greatest needs, and provide for direct parent participation.

It is a good bill, and I hope that the Congress can give it speedy approval.

Between 1940 and 1972, the number of women in the labor force has more than doubled, but the number of working mothers increased more than eightfold. Today, approximately half of all American mothers work, and of these, two out of every five have preschool children.

Divorce is on the rise in this country, and broken marriages with children are becoming commonplace. In 1973, 8.3 million American children—a total of 13 percent—lived in one-parent families. These figures cannot be ignored.

Child care facilities have been provided on a large-scale basis at times when their mothers' labor was considered critical—for example, for the national defense during both World Wars. But when the wars ended, Federal funding ended and most day care centers were forced to close their doors.

According to the latest estimates, care in licensed centers and family homes is available today for only about 905,000 children, but several million youngsters need this service.

The sad result of a lack of good, reasonably priced day care facilities is a large number of "latchkey children"—cared for by themselves. There are too many children left alone for long periods of time or left unwatched to explore as children do, exposing themselves to accidents or even death.

This country has an obligation to correct this situation.

Critics of group child care argue that such facilities will weaken the family structure and might even "replace" the family. But quality child care is not a replacement for the family. It is, instead, a supplement. According to the December 1973, issue of Women's Lobby Quarterly, a number of studies have been done on the consequences of part-time separation of children from their families. None of them, according to the studies, showed any detrimental effect on the child.

S. 3754 is based on the philosophy 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 there currently is a lack of adequate child and family services, especially for lower income families, and that there is a need to plan and operate as a partnership of parents, community, State and local governments, with appropriate Federal supportive assistance.

Quality child care is not inexpensive, but the cost of the present policies of indifference will be far higher.

NATIONAL "MS" SOCIETY YOUTH LEADERSHIP CRUSADE

Mr BAKER. Mr. President, more than 500,000 of our fellow citizens suffer from multiple sclerosis and related diseases of the central nervous system.

According to the U.S. Public Health Service, these neurological ailments are the leading cause of permanent disability and the third-ranking cause of death in our country.

Because MS usually strikes young men and women in the prime of life, this baffling disease has become infamously known as "the great crippler of young adults." Thousands of young people between the ages of 20 and 40 are incapacitated in what should be the most productive years of their lives.

This unpredictable affliction is not contagious and is not a mental disease. Rather, for some unknown reason, MS disintegrates the substance which insulates nerve fibers and distorts nerve impulses which control such functions as muscular coordination, vision, and speech.

The National Multiple Sclerosis Society has for 28 years provided effective voluntary leadership in medical research and education. In 1972 Congress passed legislation which created the National Advisory Commission on Multiple Sclerosis, thus affirming the commitment of both the public and the private sectors to finding a cure for MS and discovering better methods of treatment.

I have been most impressed by the efforts of many thousands of young people who have volunteered their time in the MS fight. Circle K International, the world's largest campus service organization, again this year has designated fund raising projects for MS research.

Even more young people have become involved through youth programs in National Multiple Sclerosis Society chapters throughout the country. The MS Society has created a youth leadership council, consisting of more than 40 outstanding young people who have devoted their time to working with local chapters and with youth organizations.

As Martin P. Lombardo, the MS Society's national coordinator for youth activities, has pointed out, this is no "honorary" group. Each of the members is a proven leader and a dedicated worker.

Members of the youth council are scheduled to meet with MS Society directors and the top leaders of a number of national youth organizations at the MS Society's youth leadership conference in Colorado on August 11.

Although members of the MS Youth Advisory Council are not concerned with achieving personal recognition, I think it is fitting that we pay tribute to them for their service to others. It is with a great deal of admiration and appreciation that I read their names into the RECORD:

NATIONAL MULTIPLE SCLEROSIS SOCIETY
YOUTH LEADERSHIP COUNCIL

Eugenia Walker, Alabama; William A. Kuehnle, Arizona; Cynthia Kay Sellars, Arkansas; Suzette Clover, Deborah A. Luke, California; Rhonda Flippin, Colorado; Sherry L. Jarrell, Stephanie A. Saxon, Delaware; Jeanne R. Abrams, District of Columbia.

Pamela M. Davis, Georgia; Roger A. Young, Hawaii; Robin R. Christian, Debbie S. Zalders, Illinois; Dana Dreher, Kansas; David R. Lane, Kentucky; Mary Kathleen Patton, Louisiana; Dennis Goodridge, Maine.

Michael W. Muther, Massachusetts; Thomas Moulton, Michigan; Richard J. Schultz, Minnesota; Gene Singleton, Mississippi; Andy Small, Montana; Dwight E. Jordan, Nebraska; Audrey Cortney, Nevada.

Bette S. Katsekas, New Hampshire; Charlene McCall, Edward Palange, New Jersey; Cathy S. Androlini, Marianne Castagna, Steven Needleman, New York; David L. Masuda, North Dakota; Suzanne M. Yokum, Oklahoma; Gordan L. Huiras, Oregon; Susan Steinmetz, Andrea Zipf, Pennsylvania; Patricia Joinville, Rhode Island.

James Grabowska, South Dakota; Randy E. Pruett, Kim Mason, Texas; Joseph Staub, Tennessee; John Mullaney, Utah; Paul W. Stetson, Vermont; Michael Shelton, Virginia; Joan Diers, Wisconsin; Joe Michaels, Washington.

GSA—25TH ANNIVERSARY

Mr. NUNN. Mr. President, the month of July 1974 is the 25th anniversary of GSA and I want to congratulate each of the past and present GSA employees for making their agency one of the most respected agencies of the Federal Government. During the past 25 years, GSA has grown rapidly in terms of size, number of employees, budget and management responsibilities. Today, it is recognized as "the" management branch of the Federal Establishment.

Recently Mayor Jackson of Atlanta recognized the significance of GSA's 25th anniversary by proclaming July 2 as GSA day in Atlanta.

I ask unanimous consent to print in the RECORD Mayor Jackson's remarks as well as my best wishes to the employees at GSA in the years to come.

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

[Office of the Mayor]

PROCLAMATION

Whereas, General Services Administration of the United States of America will mark the 25th anniversary of its birth on July 1, 1974; and,

Whereas, General Services Administration, Region 4, has its regional headquarters at 1776 Peachtree Street, N.W., here in Atlanta: and,

Whereas, General Services Administration obtains and provides goods and services for virtually all executive department agencies of the Federal Government necessary to operate the Government; and,

Whereas, hundreds of Atlantans have for many years dedicated their lives and careers to faithful service to General Services Administration and its responsibilities to our Nation;

Now, therefore, I, Maynard Jackson, mayor of the city of Atlanta, do hereby proclaim, Tuesday, July 2, 1974 as

GENERAL SERVICES ADMINISTRATION DAY

in Atlanta and urge all citizens to honor this valuable service organization.

MAYNARD JACKSON, *Mayor.*

THE NATIONAL SOCIETY OF THE SONS OF THE AMERICAN REVOLUTION

Mr. THURMOND. Mr. President, the National Society of the Sons of the American Revolution, at its 84th annual congress, recently adopted a number of resolutions on various issues of concern in America today. Particularly pertinent is the first resolution adopted expressing the support of this outstanding group for Senate Resolution 301. Senate Resolution 301 was sponsored by myself and cosponsored by 34 other Senators in an effort to express the American people's desire to maintain our sovereign rights in the Panama Canal Zone.

The other 10 resolutions adopted by the society touch on a number of important domestic and foreign policy issues, illustrating the deep concern this great organization has in maintaining the vigor of our great Nation.

Mr. President, I ask unanimous consent that the text of these 11 resolutions be printed in the RECORD at the conclusion of my remarks.

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

RESOLUTIONS

The National Society of the Sons of the American Revolution, at its 84th Annual Congress, assembled from June 23rd through June 27th, 1974 at The Baltimore Hilton, Baltimore, Maryland, adopted the following resolutions:

RESOLUTION NO. 1

Whereas, under the 1903 Treaty with Panama, the United States obtained the grant in perpetuity of the use, occupation and control of the Canal Zone territory with all sovereign rights, power and authority to the entire exclusion of the exercise by Panama of any such sovereign rights, power, or authority as well as the ownership of all privately held land and property in the Zone by purchase from individual owners; and

Whereas, the United States has an overriding national security interest in maintaining undiluted control over the Canal Zone and Panama Canal and solemn obligations under its treaties with Great Britain and Colombia for the efficient operation of the Canal; and

Whereas, the United States Government is currently engaged in negotiations with the Government of Panama to surrender United States sovereign rights to Panama both in the Canal Zone and with respect to the Canal itself without authorization of the Congress, which will diminish, if not absolutely abrogate, the present U.S. treaty-based sovereignty and ownership of the Zone; and

Whereas, these negotiations are being utilized by the United States Government in an effort to get Panama to grant an option for the construction of a "sea-level" canal eventually to replace the present canal, and to authorize the major modernization of the existing canal, which project is already authorized under existing treaty provisions; and by the Panamanian government in an attempt to gain sovereign control and jurisdiction over the Canal Zone and effective control over the operation of the Canal itself; and

Whereas, similar concessional negotiations by the United States in 1967 resulted in three draft treaties that were frustrated by the will of the Congress of the United States because they would have gravely weakened United States control over the Canal and the Canal Zone; and by the people of Panama because that country did not obtain full control; and

Whereas, the American people have consistently opposed further concessions to any Panamanian government that would further weaken United States control over either the Canal Zone or Canal; and

Whereas, many scientists have demonstrated the probability that the removal of natural ecological barriers between the Pacific and Atlantic oceans entailed in the opening of a sea-level canal could lead to ecological hazards which the advocates of the sea-level canal have ignored in their plans; and

Whereas, the Sons of the American Revolution believes that treaties are solemn obligations binding on the parties and has consistently opposed the abrogation, modification or weakening of the Treaty of 1903;

Now, therefore, be it resolved, That the National Society, Sons of the American Revolution in its 84th Annual Congress assembled, opposes the construction of a new sea-level canal and approves Senate Resolution 301 introduced by Senator Strom Thurmond and 34 additional Senators, to maintain and preserve the sovereign control of the United States over the Canal Zone.

RESOLUTION NO. 2

Whereas, the strength and stability of the economic and monetary system of the United States is vital to the defense of the country, and

Whereas, the fiscal and monetary policies of the Congress and Administration, present and past, have led to the devaluation of the dollar, double digit inflation, and the current economic crisis in the United States, and

Whereas, double digit inflation within is as great a threat, if not a greater threat, to the liberty and freedom and well-being of this country as the threat from our enemies without, and

Whereas, the basic cause of the rampant inflation is the deficit spending of the United States Congress, and

Whereas, under the Constitution of the United States, Congress is charged with the responsibility for all federal appropriations, and

Whereas, it is the urgent duty of the United States Congress to limit federal spending to the revenues of the Federal Government,

Now, therefore, be it resolved, That the National Society, Sons of the American Revolution in its 84th Annual Congress assembled, urges the Congress to balance the federal budget.

RESOLUTION NO. 3

Whereas, it was the national policy of the United States of America to intervene in Vietnam and prevent a Communist takeover of that country, and

Whereas, it is the duty of every American citizen to bear arms in support of the national policies of the United States, and

Whereas, a citizen of the United States is called upon to share the burdens of citizenship in order to insure its benefits for all citizens, and

Whereas, 40,000 young Americans fled to foreign countries to evade the military obligations of United States citizenship.

Now, therefore, be it resolved, That the National Society, Sons of the American Revolution at its 84th Annual Congress assembled, is opposed to any granting of amnesty to those who refused to bear arms for their country and instead, fled to foreign countries to evade their military obligations.

RESOLUTION NO. 4

Whereas, this country was founded by God-fearing men and women and conceived in liberty, and

Whereas, men of all countries have been moved by the eloquence and high spiritual qualities of the Declaration of Independence, and

Whereas, the Bicentennial will be a focal point for a nationwide review, and reaffirmation of the values upon which this Nation was founded, and

Whereas, all businesses and private citizens should display the United States Flag daily during daylight hours except during inclement weather, and

Whereas, it is fitting for patriots to celebrate each Fourth of July with prayer, music, fireworks and other expressions of joy and cheer, and

Whereas, it is the duty of every citizen and local community to take the initiative in planning a suitable commemoration of the Bicentennial,

Now, therefore, be it resolved, That the National Society, Sons of the American Revolution at its 84th Annual Congress assembled, urges its members and all citizens to fly flags daily, to ring bells and blow automobile horns on the Fourth of July at a time set by each community as a suitable prelude to the Bicentennial.

RESOLUTION NO. 5

Whereas, we believe the Federal Government has entered upon movement to eliminate basic rights and powers guaranteed to the states by the 10th Amendment to the Constitution, in particular the control of education and public schools, the control of land, the extension of jursdiction of the federal judiciary, the weakening of state criminal law enforcement by the imposition of untenable federal standards that result in interminable trials and sheer technicalities that often show more concern for the criminal than for the innocent victim and the long-suffering public, to name a few,

Now, therefore, be it resolved, That the National Society, Sons of the American Revolution at its 84th Annual Congress assembled, recommends that our state governors and legislators resist these federal encroachments upon the state sovereignty and oppose the extension of federal grants and Supreme Court decisions.

RESOLUTION NO. 6

Whereas, hostile foreign nations desire to obtain advanced American technology during a period of our history entitled "detente," and

Whereas, the sharing of our technology with unfriendly foreign powers will weaken this country's power and protection of the free world, and

Whereas, the joint exploration of space with any foreign nation will result in the release of technical information vital to the defense of this nation, and

Whereas no foreign power has been successful in its man-in-space program,

Now, therefore, be it resolved, That the National Society, Sons of the American Revolution, in its 84th Annual Congress assembled, opposes in general the sharing of any of our technology with unfriendly foreign nations and in particular the sharing of our

man-in-space capability with any foreign power, and recommends that all federal agencies should intensify efforts to prevent the dissemination of critical technology to any foreign power.

RESOLUTION NO. 7

Whereas, the National Society, Sons of the American Revolution supports proper commemoration and celebration of the American War for Independence which gained the 13 Original Colonies their freedom; and

Whereas, the Battle of Cowpens, fought in South Carolina near the present village of Cowpens was a major victory for loyal Americans in their fight for liberty; and

Whereas, the Federal Government has appropriated certain funds for the improvement and enhancement of the Cowpens Battleground site; and

Whereas, the effect of monies spent will be much more effective and widespread, and of longer duration, if a permanent annual celebration is held at the Battleground;

Now, therefore, be it resolved, That the National Society, Sons of the American Revolution in its 84th Annual Congress assembled, favors allocation of an adequate portion of available funds for the construction of a suitable amphitheater which will be made available for the production of an annual outdoor drama based upon the Battle of Cowpens and surrounding events, so that the people of America will have a better opportunity to become more conversant with the great deeds of our illustrious ancestors.

RESOLUTION NO. 8

Whereas, Professional Standards Review Organization (PSRO) was established as a rider attached to the Social Security Law of 1972 without public hearings or proper consideration; and

Whereas, confidential medical records of every patient under any of the numerous government-sponsored health care programs will be open to PSRO inspectors; and

Whereas, "norms" set by the Department of Health, Education and Welfare, after examination of all patient records, will change the concept of health care, nullifying doctor-patient privacy preventing full use of the doctor's knowledge, experience and training; and

Whereas, PSRO can overrule a doctor's decision in prescribing, hospitalization, or operating under penalty of fine and suspension from medical practice;

Now, therefore, be it resolved, That the National Society, Sons of American Revolution at its 84th Annual Congress assembled, supports the adoption of H.R. 9375, or similar resolutions, which would repeal the provisions of the Social Security Act which violate the confidentiality of the doctor-patient relationship which would be contrary to numerous state statutes, contrary to professional ethics, and which would lead to federal control of medicine.

RESOLUTION NO. 9

Whereas, there is pending in the United States Congress a resolution sponsored by Senator Harry Flood Byrd, Jr. of Virginia in which Senator William Scott of Virginia has also joined as a co-sponsor, to restore the citizenship of General Robert E. Lee.

Now, therefore, be it resolved, That the National Society, Sons of the American Revolution at its 84th Annual Congress assembled, joins in with the purpose and spirit of this pending Congressional resolution.

RESOLUTION NO. 10

Now, therefore, be it resolved, That the National Society, Sons of the American Revolution at its 48th Annual Congress assembled, reiterates and reaffirms that all previous resolutions adopted at prior Congresses be reaffirmed.

RESOLUTION NO. 11

Whereas, the 84th Annual Congress of the National Society, Sons of the American Revolution has been successful in every respect, and

Whereas, that success has been due to the efforts of those who planned and took part in the program.

Now, therefore, be it resolved, by the National Society, Sons of the American Revolution, that it hereby expresses its gratitude and deep appreciation:

1. to the President General for his able leadership,
2. to the officers, chairmen and members of their committees,
3. to the loyal headquarters staff for their constant effort in providing an efficient operation,
4. to the speakers, Compatriot (Dr.) Norman Vincent Peale and the Honorable J. William Middendorf, II, Secretary of the Navy, for their inspiring addresses,
5. to the United States Navy; Joint Armed Forces (Pentagon); Colonial Guard, 175th Infantry; United States Marine Corps and the Commander-in-Chief's Guard Colors, U.S. Army, for furnishing color guards,
6. to the United States Marine Band, the United States Army Soldiers' Chorus, the Chorus of the Chesapeake, and the U.S. Navy Sea Chanters for furnishing music and entertainment,
7. to the press, radio and television for their coverage of the Congress,
8. to the Maryland Society for its contribution to a successful 84th Annual Congress,
9. to all individuals who contributed to the success of this Congress.

FAIR NUCLEAR INSURANCE REQUESTED BY THREE BANKS AND A CHAMBER OF COMMERCE

Mr. GRAVEL. Mr. President, the question of nuclear insurance is an environmental issue of such importance that when the League of Conservation Voters prepares our environmental ratings, the league will take a look at our votes next week on H.R. 15323.

It is likely that corporate and individual property owners would be equally concerned about the issue if they only realized that nuclear insurance legislation is putting all their assets at risk.

When someone takes the trouble to alert them, which is what happened in Valparaiso, Ind., thanks to a concerned citizen named Elmer D. Anderson II, suddenly we see three banks, a chamber of commerce, and a county board of commissioners passing resolutions. These resolutions all ask Congress to pass legislation enabling injured parties to secure adequate compensation in the event of a nuclear power accident.

The amendments I will propose to H.R. 15323 would achieve that goal.

Without these amendments, H.R. 15323 would set an arbitrary dollar limit on the amount of compensation which would be available for nuclear power victims. As a result, injured parties would not receive full compensation after any nuclear accident for which aggregate damages exceeded the liability limit.

Unless amended, the bill would protect the assets of the nuclear power industry—by putting the assets of every other industry and private citizens at risk. Such a proposition is outrageous, and I will try to rectify it with amendments.

Mr. President, I ask unanimous consent that resolutions on nuclear insurance from the Northern Indiana Bank & Trust Co., the Chestertown State Bank, the New Berlin State Bank, the Greater Valparaiso Chamber of Commerce, and the Porter County Board of Commissioners, be printed in the RECORD.

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

NORTHERN INDIANA BANK
& TRUST CO.,
Valparaiso, Ind.

A RESOLUTION PERTAINING TO INDEMNIFICATION TO PRIVATE PROPERTY OWNERS FOR LOSSES SUFFERED THROUGH RADIATION DAMAGE

Whereas, Northern Indiana Bank and Trust Company is engaged in lending funds for real estate mortgages for business, industrial and residential properties, and:

Whereas, the citizens of Indiana, cannot obtain insurance coverage for radiation damage to personal and real property, and:

Whereas, it is the understanding of the bank that there is limited Federal compensation available to persons sustaining radiation damage to private property due to radiation fallout, and:

Whereas, nuclear power installations by public utilities have been constructed, are under construction, or are contemplated within a radius of the community served by the bank which, if such fallout would occur, would affect our mortgagors, now, therefore,

Be it resolved, that the Board of Directors of Northern Indiana Bank, finds full and complete coverage for radiation damage to private property should be made available to mortgagors, at a reasonable rate, or in the alternative, the Congress of the United States of America should consider the passage of legislation insuring that funds be made available to adequately compensate the citizens in the event of any radiation damage.

Resolution adopted December 11, 1973.

BOARD OF DIRECTORS OF NORTHERN
INDIANA BANK & TRUST CO.,
JOSEPH W. BIBLER, *President.*

Attest:

LESLIE E. ROBINSON,
Secretary of Board of Directors.

A RESOLUTION PERTAINING TO INDEMNIFICATION TO PRIVATE PROPERTY OWNERS FOR LOSSES SUFFERED THROUGH RADIATION DAMAGE

"Whereas, Chesterton State Bank, Chesterton, is engaged in lending funds for real estate mortgages for business, industrial and residential properties, and:

"Whereas, the citizens of Indiana, cannot obtain insurance coverage for radiation damage to personal and real property, and:

"Whereas, it is the understanding of the bank that there is limited Federal compensation available to persons sustaining radiation damage to private property due to radiation fallout, and:

"Whereas, nuclear power installations by public utilities have been constructed, are under construction, or are contemplated within a radius of the community served by the bank which, if such fallout would occur, would affect our mortgagors, now, therefore,

"Be it resolved, that the Board of Directors of Chesterton State Bank, Chesterton, finds full and complete coverage for radiation damage to private property should be made available to mortgagors, at a reasonable rate, or in the alternative, the Congress of the United States of America should consider the passage of legislation insuring that funds be made available to adequately compensate the citizens in the event of any radiation damage."

I, Robert G. Dunbar, certify that I am President of the Chesterton State Bank,

Chesterton, Indiana, and that we have adopted this resolution as long as it is not used in any way as a remonstrance against the establishment of any nuclear generating station or facility.

Witness my hand and the Seal of Chesterton State Bank, Chesterton, this 13th day of April, 1974.

ROBERT G. DUNBAR, *President.*

NEW BERLIN STATE BANK,
New Berlin, Wis., April 24, 1974.

Senator WILLIAM PROXMIRE,
U.S. Senate Building,
Washington, D.C.

DEAR SENATOR PROXMIRE: As a member of the financial community, the Board of Directors of the New Berlin State Bank would like to voice their concern over the problem of "Nuclear Accident Insurance".

It is our understanding that all regular insurance companies have a "Nuclear Accident Exclusion Clause" and the only protection afforded is from a federal coverage pool of something over $500 million.

We feel that property owners should be able to purchase coverage under a type of regular insurance policy with the coverages spelled out so that they would be adequately protected in the event of a "Nuclear Accident".

With the expansion of the nuclear generating facilities, the federal coverage pool could easily be inadequate. In this event, the mortgages held by financial institutions would be in jeopardy. If this were to happen, the financial strength of the institutions could very well be impaired.

As our representative, we hope that you will recognize the need for better protection than is now available.

Very truly yours,

ROBERT A. MAU, *President.*

GREATER VALPARAISO CHAMBER OF COMMERCE,
Valparaiso, Ind.

To Whom It May Concern:

Be it resolved, the Board of Directors of the Greater Valparaiso Chamber of Commerce, feels it important for citizens to have available full and complete insurance coverage in case of radiation damage to private property, and at a reasonable rate. The alternative being, for the Congress of the United States of America to consider the passage of legislation, guaranteeing that funds would be made available to adequately compensate citizens in the event of any radiation damage.

Resolution adopted, April 16, 1974.

R. JAMES RISK, *President.*

BOARD OF COMMISSIONERS OF PORTER COUNTY, IND.

A resolution concerning the adequacy of Federal assistance for radiation damage

Whereas, it has been brought to the attention of the Board of Commissioners of the County of Porter, Indiana, that citizens of this County cannot obtain insurance coverage for radiation damage to personal property and real property, and

Whereas, it is the understanding of the Board that there is limited federal compensation available to persons sustaining radiation damage to private property due to radiation fallout, and

Whereas, Northern Indiana Public Service Company is contemplating the construction of an electric utility installation in Porter County, Indiana, powered by nuclear energy to provide additional power sources needed in this County, now, therefore,

Be it resolved that the Board of Commissioners of the County of Porter, Indiana, finds full and complete coverage for radiation damage to private property should be made available to the citizens of Porter County, Indiana, at a reasonable rate or, in the alternative, the Congress of the United States of America should consider the passage of legislation insuring that funds be made available to adequately compensate the citizens of this County in the event of any radiation fallout damage.

Passed by Aye vote this 15 day of October., 1973.

BOARD OF COMMISSIONERS OF PORTER COUNTY, IND.
MARTIN J. ERICSON,
HARRY F. BAMESBERGER.

FOREIGN ACQUISITION OF AMERICAN COMPANIES

Mr. SCHWEIKER. Mr. President, it has come to my attention that a tender offer for a major interest of the stock of Philadelphia-based ESB—Electric Storage Battery, Inc.—has been made by International Nickel Company of Canada, Ltd. The tender offer price is $28 per share, and ESB recently closed at $19 per share.

I understand appropriate statements have been filed with the Securities and Exchange Commission, and I would not presume to advise the shareholders of ESB as to whether they should accept the International Nickel offer. But I would like to take this opportunity to point out to my colleagues that this type of transaction, in which a foreign-based multinational corporation seeks control of a major American company, is occurring with increasing frequency, and I believe we should be taking a hard look at whether existing laws in this area adequately protect our national interest.

Two factors have made this situation especially critical at the present time. First, although experts cannot agree on whether our present economic situation is a recession or not, everyone agrees that the prices of stocks traded on major exchanges in this country are drastically depressed. In many cases, the shares of respected, established companies are actually selling for less than the shareholders would receive if bankruptcy forced immediate and total liquidation. Analysts differ as to the reasons for this, but it is clear that the shares of many major American companies are currently trading at bargain basement prices.

The other factor which has created this critical situation is the incredible abundance of capital now concentrated in the hands of foreign companies and governments. This massive capital accumulation has resulted not only from oil price hikes, but also from sharp price jumps in virtually every natural resource. Thus, the foreign natural resource companies—and the countries where they are located—are actively seeking investments for huge amounts of capital, and the shares of major American companies are selling at record low prices. It does not take an economist to figure out what is going to happen in this situation.

My good friend and colleague, Congressman JOHN DENT, has introduced H.R. 11265 in the House to deal with this problem. Congressman DENT's bill would impose strict limitations on the percentage of American companies which foreign interests may require, and would impose new reporting and disclosure requirements. I hope the House will act promptly on the Dent bill.

This is not restrictive, isolationist legislation. Indeed, virtually every country in the world has comparable limits on foreign acquisition of their domestic companies. This is nothing more than prudent concern for our long-term national interest, and I urge my colleagues to give this problem immedite consideration.

DEATH OF SENATOR WAYNE MORSE

Mr. BROOKE. Mr. President, it is a critical period in our Nation's history. Our people must be willing to exercise exceptional resolve to insure that our fundamental principles of freedom remain inviolate. Unfortunately, at a time when the country needs leadership more than ever, death has not taken a holiday. For the third time this month, we have lost an outstanding national leader.

The death of Senator Wayne Morse is a tremendous loss. His leadership was of a special kind. He was the personification of integrity. He demonstrated consistently a steadfast commitment to the truth and to what he believed to be just and right.

Wayne Morse served in the U.S. Senate with remarkable distinction for 24 years. He was respected as a gifted lawmaker, with a genuine mastery of foreign policy, education, and labor legislation. His devotion to civil rights and civil liberties was unsurpassed.

But most of all Wayne Morse will be remembered for his uncompromising dedication to his many causes. Having once established a position on an issue, he would fight tenaciously to persuade others of its correctness, no matter how insurmountable the opposition appeared to be. The most outstanding example of this was Senator Morse's stand on the Vietnam war. Along with Senator Ernest Gruening, Senator Morse cast one of the two votes opposing the Gulf of Tonkin resolution.

And party labels did not intimidate Wayne Morse. In words that I hope will forever echo across this land, he once stated:

I have no intention of placing party above country.

Senator Wayne Morse had a unique dignity. He was a man of force, intelligence, mission, and courage. Such men are rare—in any era. The Senate will long remember the Senator from Oregon. And the country will sorely miss his exemplary leadership.

EARTH RESOURCES TECHNOLOGY SATELLITE

Mr. MOSS. Mr. President, just this past week, ERTS–1 completed its second year in space after compiling a long list of achievements. ERTS, which stands for Earth resources technology satellite, orbits the earth approximately once every hour and one-half. In the past 2 years, the spacecraft has logged more than 10,000 orbits and returned data from which over 100,000 pictures of the Earth's surface have been produced.

The quality of the photograph-like images is excellent. The large area covered by these images is a unique and valuable aspect of the ERTS–1 data since it allows the recognition of surface features which are too subtle to be found on even the best mosaic pictures. Coverage and detail have exceeded our expectations.

The ease with which ERTS–1 is obtaining accurate, detailed, and useful information about large regions of the Earth every 18 days is unprecedented.

What are the implications of such technology? In a world beset by a plethora of problems, including shortages of fuel, minerals, food, and water, the value of ERTS becomes readily evident. Through ERTS data, scientists have discovered ground water resources in Kenya, found lakes in Bolivia, and detected underground water sources in Florida. In addition, pollution of our valuable water resources has been monitored by ERTS. Imagery of the New York Bight was obtained 2 days after offshore dumping of sewage sludge and acid waste products. From investigation of the ERTS data, scientists were able to infer the products responsible for the alteration of water color and information about the dispersal of the material by current and tides. ERTS monitoring of the seas has also provided information leading to increased fishing yields.

Monitoring of land by the satellite has proven equally valuable. Crops can be identified and their conditions can be assessed. California crop land afflicted with cotton bollworm infestation has been monitored by ERTS. Mineral resources also have come under ERTS scrutiny. Photographs of the satellite have helped identify faults and fractures generally associated with mineral and petroleum deposits. Maps made from ERTS images contain more detail than conventional maps and depict land forms, agricultural field patterns, and geological features.

The extraordinary rate at which ERTS–1 produces maplike images is a significant cartographic advance. For example, the land use map of Rhode Island was created in 48 hours from ERTS images. Thus, State planners had up-to-date detailed information concerning their natural resources.

Mr. President, I have only touched upon a few of the many unique benefits derived from ERTS. In view of the many pressing problems facing our Nation today, I am sure that my colleagues are reassured to know that such progress is being made through the advance of science and technology. At the same time, it is disconcerting when we realize that this contribution may be abruptly ended. As yet, there are no plans to expand ERTS into a continuous, fully operational program. I feel that failure to do so would be irresponsible and injudicious on our part. The Committee on Aeronautical and Space Sciences plans to investigate this matter further in hearings on August 6 and 8. It is my hope that these hearings will shed light on the usefulness of ERTS, and the need to continue this valuable program unabated.

THE FEA: READY FOR WINTER?

Mr. CHILES. Mr. President, in February of this year, I conducted hearings for the Special Committee on Aging on the effects of the energy crisis on older Americans and related matters. The testimony of the Federal Energy Administration focused on the establishment of a Special Impact Office that would deal with problems of groups in special need, such as the elderly.

Mr. Dennis Bakke and Mr. Duke Ligon of the Federal Energy Office testified on the establishment of the Special Impact Office. Under questioning, they said that the Special Impact Office had come into being only a month prior. Key personnel had not then been named. The following dialog took place:

Senator CHILES. So you do not have a Special Impact Office at this time, Mr. Bakke?

Mr. BAKKE. We have it on the organization chart.

Mr. LIGON. We have it on the chart, and we also have a nucleus of staff that is presently working insofar as making the input to policy regulations, and the procedure that Mr. Bakke outlined here this morning.

Senator CHILES. I understand you have massive problems over there, and I do not mean to make life miserable, but I think we have a credibility problem today in Government generally, and when we say that we created a Special Impact Office, then I think we have to be careful with what comes out of this hearing.

I call my colleagues' attention to this portion of the testimony because subsequent events have sustained my concern about the commitment of the Federal Energy Administration in dealing with intense human problems related to energy shortages. It appears that the Federal Energy Administration has put low priorities for such offices as Special Impact and Consumer Affairs.

At a later hearing in April, Mr. John Sawhill, now Federal Energy Administrator, testified about the focus and goals of the Special Impact Office. He failed to persuade me that he was preparing a contingency plan which would offer practical help to the elderly and others this winter.

In addition, a recent article by Jack Anderson raises some important questions about the determination of the Federal Energy Office to meet its public responsibility. I shall request permission to have Mr. Anderson's article from the Washington Post of July 13 included in the RECORD.

Mr. President, the Special Impact Office has a unique role in assuring that disadvantaged groups do not carry an unfair share of the burdens caused by the high cost or unavailability of energy. It should function as an advocate not only within the Federal Energy Office but with other executive agencies such as Health, Education, and Welfare, Housing and Urban Development, and the Department of Transportation. FEA should also mobilize resources at the State and local level. Events of the last few months call into serious question whether this important function is being accomplished.

On behalf of the Committee on Aging, I recently sent a questionnaire to State units on aging to ascertain what action is being taken at the State level to meet the special needs of the elderly with winter. The preliminary results indicate that only limited activity has taken place at the State level and that there has been little or no direction from the Federal Government.

If we are going to avoid serious hardship and sacrifice in the near future, the Federal Energy Administration needs to upgrade the function and role of both the Special Impact Office and the Consumer Affairs Office. This is in opposition to what appears to be the past practice of using these offices as something to point to when Congress begins to ask questions. The lack of positive programs by the Federal Energy Administration as it affects the special needs of the elderly does not make a bright future for older Americans during this coming winter.

Mr. President, I ask unanimous consent that the article by Jack Anderson to which I have referred to 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 13, 1974]

FEA NEGLECT OF SPECIAL CASES TOLD

(By Jack Anderson)

A scathing internal memo has accused the Federal Energy Administration of neglecting the poor, the elderly and the disadvantaged whom it had pledged to help.

The Special Impact Office, which was supposed to help hardship victims with their energy problems, was "created merely for political expediency," the memo charges.

The explosive memo catalogues alleged examples of the creeping lethargy. Here are the highlights:

Before a scheduled appearance at a Senate aging committee hearing, federal energy chief John C. Sawhill called the Special Impact Office to find out what they were doing for the elderly. The answer, according to the memo, was "nothing." Sawhill's office instructed the hardship experts to start some program he could tell the Senate about. The memo calls Sawhill's subsequent testimony about how his agency was helping the elderly "a display of political manipulation of fact and intent."

A survey was ordered of federally-funded transportation systems that serve the elderly. It was supposed to be completed by May 15, but special impact deputy chief Curtis Jones told us the results are still coming in. In any event, the survey doesn't cover independent systems, which more than federal systems are likely to be cut back as a result of the energy pinch.

Jones boasted that Operation Harvest, an emergency program to help migrant workers obtain gas during the shortage, was "precedent setting." But the memo alleges that "the relief strategy, such as it was, was announced on April 4, over a month after the original petition. In the interim, the Arab oil embargo had been lifted and supply of gasoline to all—including migrants—ceased to be a major obstacle."

The gas shortage caused many personal tragedies that were ignored by the Special Impact Office. A paraplegic, for example, pleaded for help in finding a reliable source of gasoline. His special automobile was his only form of transportation. Every time he needed to use the wash room, he had to drive all the way home where he had specially equipped facilities Yet as of this writing, his letter hasn't been answered.

Concludes the memo: "Unfortunately, the most pathetic and needy element of the pop-

ulation looks to our office for relief and is met with palliatives and political verbiage."

The fate of the memo, written by Susan Silver, now resigned, illustrates how the new Federal Energy Administration has already developed into a bureaucratic bog. Ms. Silver told us the memo was supposed to go to energy director Sawhill, but he never got it.

She then tried to make an appointment with the director, but was twice turned down. Finally, the enterprising critic slipped the memo to Mrs. Sawhill, her former college professor. Thus, the energy chief finally got the message, called the author and promised action. A new director of special impacts has now been appointed, and she has contacted Ms. Silver to discuss the points raised in the memo.

Footnote: Jones told us the Special Impact Office had to be "a fire fighter" during the worst of the energy crisis, which created problems. But now, he said, the office can concentrate more on substantive, long-range programs.

MR. ROBERT H. HINCKLEY

Mr. MOSS. Mr. President, in every city, county, and State we find a few outstanding citizens—people who have given more than their share to do the things that had to be done to make life run a little smoother for us all.

In my home State of Utah my good friend Robert H. Hinckley is such a man. His excellent service to my home community is pointed out in part in a July 29 article from the Salt Lake Tribune.

I ask that this article be printed in the RECORD.

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

A LIFETIME IN POLITICS RECALLED BY UTAH'S ROBERT H. HINCKLEY

(By JoAnn Jacobsen)

"To Bob Hinckley, my dear friend. With warm regards . . ."

Signatures similar to this are on more than 50 photographs hanging in Robert H. Hinckley's ranch office at the Garden of Eden (Eden, Weber County)—the hideaway hamlet of the former state legislator and founder of the Hinckley Institute of Politics at the University of Utah.

Such affectionate notes are common enough between friends, but far less common when their inscribers are John F. Kennedy, Lyndon B. Johnson, Harry S. Truman, Franklin D. Roosevelt, J. Edgar Hoover, Bernard M. Baruch.

While awesome to most, Mr. Hinckley, active in politics his entire life, finds himself at home with the political greats that wallpaper his study.

FAMILIAR FACES

In fact, when he scans the familiar faces, a smile comes to his face—and you know there are some tales about the famous men that he's not about to tell.

"It all started in 1932 when I made the mistake of telling Henry Blood (whom he was encouraging to run for governor of Utah) that I wouldn't ask him to do anything that I wouldn't do should he ask me," Mr. Hinckley said.

Gov. Blood (who took office in 1933) remembered Mr. Hinckley's promise.

"When the Civilian Conservation Corps (CCC) was established (to help unemployed young men obtain work), Gov. Blood called me from Washington and asked me to organize the counties of Utah for enrolling the young men in the corps," he said. "I had to do as he asked."

ANOTHER CALL

But, when the task was done, the Utahn's work in government had just begun. He got another call.

"Bob, before you go home (to Hinckley Dodge Inc.), set up Utah's emergency relief program on a business basis," Gov. Blood requested.

(The Federal Emergency Relief Administration (FERA), which succeeded the CCC in 1933, was founded to cooperate with states in relieving hardships caused by unemployment and drought).

The Utah businessman dreamed up the Water Conservation and Development Plan, which would do just what its name implied—conserve and develop enough water to keep the factories operating, creating employment. The plan lacked one thing: funds.

"So I called Harry Hopkins, director of FERA, and told him that if he would give me $2 million to finance my plan, I'd save him three times that amount in direct relief to Utah," Mr. Hinckley said, motioning to Hopkin's picture on the wall.

The plan was successful. So, this time Hopkins called Mr. Hinckley—to make him assistant FERA administrator.

His assignment: To establish work programs in 11 western states.

"It was through Hopkins that I met (President) Franklin D. Roosevelt," Mr. Hinckley smiled, nodding to another 5x7 photograph. "Every time I wanted to quite government and go home (to the car business), Hopkins would call me to Washington and take me to Roosevelt's office for a talk."

MORE FREQUENT

Those chats became more and more frequent when President Roosevelt appointed Mr. Hinckley member and then chairman of teh Civil Aeronautics Authority, and later assistant secretary of commerce in 1940. (A plaque in his honor hangs at the Salt Lake City International and Washington National airports—both of which Mr. Hinckley initiated).

After serving two years as assistant secretary of commerce, he left Washington politics temporarily to join the Sperry Corp. in New York City.

It was only temporary.

"James Burns (former Supreme Court justice and assistant to the President) brought me back into government when he had Roosevelt appoint me director of Terminated Contract Settlements," Mr. Hinckley said, fondly glancing at another picture.

(The Office of Contract Settlement was created by Bernard M. Baruch's plan to set the billions of dollars of terminated contracts expeditiously to prevent any hiatus between war and peace time production).

Mr. Baruch's picture also hangs in the Hinckley den, along with President Harry Truman's, and one of Angelo Rossi, former mayor of San Francisco.

"Roosevelt was in Hawaii and Hopkins was in Europe, so I represented the government in San Francisco during the great general strike in 1940," Mr. Hinckley said. "Workers were turning milk trucks over at the edge of the twon when Mayor Rossi and I took up residency in city hall.

"I announced that no one would go hungry in San Francisco" the Utahn exclaimed. "But I didn't have the slightest idea what I was going to do when I made the statement. I just had confidence that Roosevelt would back me up."

In Mr. Hinckley's quaint village office, there are also pictures of "my dear friend (President) Lyndon B. Johnson," and of John Connally, former secretary of the treasury, who worked with Mr. Hinckley to try to get Johnson elected to the presidency in 1960.

"TAKE INVENTORY"

There's an autographed picture of former Speaker of the House Sam Rayburn who Mr. Hinckley met with nightly in their Los Angeles Hotel to "take inventory" of the day's activities in the 1960 Democratic Convention.

"You know I was first elected to the state legislature when I was 27," Mr. Hinckley said. "It was a flu year in Utah (1918) and we weren't holding any public meetings indoors, so the Democrats held their convention in the county fairgrounds grandstand.

"I wasn't even there," he protested.

"I was in the classroom telling kids the same thing I'm telling them today: Get home and tell your parents to get involved in politics.

NOMINATING CONVENTION PRAISES SENATOR BENNETT

Mr. HANSEN. Mr. President, it was my high honor and personal delight to be in Salt Lake City last weekend for the 1974 Utah Republican State Nominating Convention.

It was my pleasure to appear at the July 27 meeting at the Salt Palace as the keynote speaker and to be introduced at that function by the senior Senator from Utah, WALLACE F. BENNETT.

Although I enjoyed my participation in the convention, the highlight of that meeting—under the direction of T. William Cockayne, State chairman—was a fine and well-deserved tribute paid to Senator and Mrs. Bennett by the delegates.

The testimonial to WALLACE and Frances Bennett is well deserved and calls attention to the work of a man closing out a most distinguished career of 24 years of service in Washington, D.C. It is a fitting tribute to a job well done.

Mr. President, as a mark of the deep respect in which Senator BENNETT and his wife are held, I ask unanimous consent that the testimonial resolution be printed in the RECORD.

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

TESTIMONIAL TO WALLACE AND FRANCES BENNETT

Since January, 1951, Utah's distinguished Republican Senior Senator, Wallace F. Bennett, has represented Utah and served the nation in the historic halls of the United States Senate. He retires after these twenty-four years not only undefeated in electoral contests, but even more important, with his reputation for absolute integrity, human decency, and unusual ability not only unimpaired but magnified.

He leaves a tradition of service and patriotism. Truly his guiding standards have been "Faith and Freedom." As a man of quiet yet great religious faith, he served equally men of all faiths. While believing fully in the constitutional doctrine of separation of church and state, he has shown by example that he rejects the heresy that morality may be separated either from politics or government. Thus the men who knew him best entrusted him to serve as Vice Chairman of the Senate Select Committee on Standards of Conduct.

Daily for over two decades in the Senate, Wallace Bennett demonstrated his faith in America, in the Constitution, and in the American free enterprise system. He fought against the popular philosophy that government should be almighty. He stood for constitutional checks and balances, separation of

powers, and for strong state and local governments when it was unpopular to do so.

He leaves monuments to his leadership from one end of Utah to the other, including Lake Powell, Flaming Gorge Dam, Interstate 70, better developed and protected National Parks, monuments and forests, new Federal office buildings, the Western Regional IRS Center, the impetus for Utah's area-space industry together with many other perpetual reminders of his service. Yet it was not projects attained but people served that brought him his greatest satisfaction. Through his help to servicemen, the elderly on social security. Utahns endangered abroad, students and others seeking jobs in Washington, D.C., people who had problems coming with the complex Federal bureaucracy, and also to countless others in numberless ways he gave life to the concept of ombudsman before the idea was conceived. Unusual for a politician, his performance nearly always exceeded his promises.

Wallace Bennett is one retiring political leader who will be sorely missed. Recently the Wall Street Journal's top Washington, D.C. writer, after listing many retiring members of Congress who "are no loss at all," then placed Senator Bennett among the select list of those who "will leave behind a real void." Specifically, he was described as "a conscientious, intelligent Republican expert on tax and banking matters."

Beholden to no special interests, he has been free to represent Utah in Washington and not Washington in Utah. He is OUR man. To this great Senator, great American, great Utahn, and great Republican who, with his gracious and talented wife, Frances, chose performance over publicity, work over show, and solutions over issues, we extend our heartfelt appreciation and say "well done!" The greatest tribute we can give him now is to elect a strong Republican Senator in his stead to carry the still brightly burning Bennett Torch into the next Congress.

To his gracious and talented wife, Frances, who was always constant and helpful in his support and who because of her own gift of leadership was elected President of the Congressional Club (an organization of the wives of all Senators and Representatives), we also extend our gratitude and warmest affection. As they return to their native state we hope they will enjoy for many years the friendship and esteem of their fellow citizens whom they have served so well for twenty-four years.

THE WORLD FOOD CRISIS

Mr. HUMPHREY. Mr. President, it was necessary for me to be in Minneapolis, Minn., this morning on official business. The Midwest Governors Conference was holding its annual meeting in Minneapolis. I was invited to serve as moderator of a distinguished panel which had as its responsibility the discussion of the world food crisis. The panel participants were: Dr. Norman Borlaug, Nobel Prize winner, and distinguished agricultural scientist; Dr. Lester Brown, Senior Fellow of the Overseas Development Corporation and respected authority on world food problems; Dr. Quentin West, Director of the Economic Research Service of the Department of Agriculture, Congressman PAUL FINDLEY, member of the Committee on Agriculture in the House of Representatives; Mr. Tony Dechant, president, National Farmers Union and articulate spokesman for the family farmer; and Mr. Oren Lee Staley, president of the National Farmers Organization and one of the most vigorous leaders in rural America.

I ask unanimous consent to have the text of my remarks printed in the RECORD.

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

REMARKS BY SENATOR HUBERT H. HUMPHREY AT THE MIDWEST GOVERNORS PANEL DISCUSSION: "FOOD POWER," MINNEAPOLI, MINN. JULY 30, 1974

INTRODUCTION

It is a privilege and an honor to appear as moderator of this distinguished panel.

The subject which we are to examine, "Food Power" is a matter of growing importance for all people.

My role in this inquiry, as I understand it, is to serve as moderator and also attempt to lay out some of the areas which need to be examined.

To get started, we must try to develop a better picture of today's food situation. Are we faced with the prospect of famine or at least tight food supplies in the near future? What can be done to increase agricultural production and without too high a price on our ecosystem?

UNDERSTANDING THE PROBLEM

These questions clearly put our inquiry on a world-wide basis, and this is appropriate since food has become a topic of international concern.

It is clear that the food picture has changed drastically in the last two years. And food scarcity has become accepted as the new reality.

This changed situation resulted in part from crop failure but also from a changed demand on the part of consumers in the developed world.

In the future, the competition for precious food will involve not only the traditional population and agricultural production equation. It will also be heavily influenced by the level of demand in the developed countries where consumers have begun to demand more protein in the form of meat, milk and eggs.

The new scarcity in food has meant that prices have gone up, and the poorer nations have had to cut consumption and deplete their limited foreign exchange holdings.

The adjustment to increased food costs and reduced supplies has come about at the same time the world was reeling from the impact of the energy crisis. In fact, these two areas are intimately related and especially is a foreign exchange requirement for the poorer countries.

Under these circumstances world food reserves have declined to around 27 days, their lowest point in over two decades.

Famine has already hit large parts of Africa, and Southeast Asia is near the danger point. Food reserves in India have declined to the danger point, and a further delay in monsoon rains, already over three weeks late, could spell disaster.

The United States is thrown into a critical role under these circumstances because it holds the key as the world's major food surplus nation.

Export levels for the United States have recently reached 70 million tons, compared to 18 million tons for Canada, and 7 million tons for Australia.

Other areas such as Latin America had surplus production in the 1930's, but now are net importers. The deficit areas of the world include Asia—39 million tons; the Soviet Union and Eastern Europe—27 million tons; Western Europe—21 million tons; and Latin America—4 million tons.

While the world's population has been increasing at slightly above 2 percent per year, world food production has risen by 2.5 percent per year. Unfortunately, however, much of the increased food production has occurred in the *developed* countries thereby making the poor countries more dependent on the richer nations for their food.

The results of a computer analysis by a group of Case Western Reserve University Professors shows quite clearly that the grip of the food crisis in South Asia will increase after reaching already unbearable proportions. Specifically, by the year 2025 the protein deficit may exceed more than 50 million tons annually; and this will happen in spite of all advancements that can presently be predicted, including permanent cultivation of all possible arable land in the entire region.

With the threat of ever greater food scarcities ahead, we need to work together with other nations before the situation becomes even more serious.

THE ROLE OF THE DEVELOPING NATIONS

Clearly the developing countries must place greater emphasis and investment in food production.

We are reaching the point of diminishing returns in terms of expanding production in the developed countries. Additional investments of fertilizer or energy will bring a far greater return in the developing countries than in the developed countries where fertilizer is already heavily used.

As Lester Brown and Eric Eckholm state in their forthcoming book. *By Bread Alone:*

"The world's principal unrealized potential for expanding food production is now concentrated in the developing countries. Soils in Bangladesh are fully equivalent of those in Japan, yet rice yields are only one-third of those in Japan. India's area of cropland is roughly comparable to that of the United States, but it harvests only 105 million tons of grain while the United States harvests 250 million tons."

The policies of the developing nations should be shaped to encourage farmers to increase agricultural production. The small farmer needs water, improved seeds, fertilizer, improved transportation and storage, credit, technical assistance and above all a fair return for his produce.

Should less developed nations follow a policy oriented toward maintaining cheap food for the urban centers, increased food production, will be discouraged, and the migration of people to the illusory opportunities of the cities will continue.

Work must go on in developing improvements in seed varieties so that further production increases can be made and nutritional levels improved. The Green Revolution has only begun, and its momentum must be increased.

THE CONTRIBUTIONS OF THE DEVELOPED COUNTRIES

The wealthy, developed countries, and particularly the United States, will play a key role both in assisting the developing countries and formulating sensible national agricultural strategies.

The developed countries have the critical manpower and the resources which are required to provide technical assistance in areas such as agricultural credit, water and land management, fertilizer production, agricultural economics and research.

It is encouraging that the World Bank has changed its policies in recent years to place greater emphasis on agricultural production and the small farmer. The United States should do everything in its power to support and further this trend, not only in the World Bank but other international agencies as well.

The United States with its satellite technology is in a unique position to learn more about the world's weather patterns and its implications for agricultural production.

With experts such as Reid Bryson of the University of Wisconsin warning of changing weather patterns, this new technology can

be of vital importance in understanding the changes and dealing with them.

Another critical area in terms of agricultural production is energy. The developed countries, with their superior technology, are usually in an advantageous position over the developing countries in terms of getting a share of fertilizer and petroleum products.

As James Grant, President of the Overseas Development Council points out, this is a very serious moral question for the United States and the developed nations.

A major effort must be undertaken not only to develop new sources of energy, but also to conserve energy and maximize the agricultural output per unit of energy utilized.

Another key area where the United States can play an important role is in soybean research. As a means of increasing protein output and conserving fertilizer, discovering the secret of nitrogen fixation, as it occurs in the soybean plant, would be of major significance.

I have joined with other Senators in having the Senate make a major increase in funding for soybean research.

A final area where the United States can make a major contribution to increasing agricultural production is in improving its own agricultural policies.

I have long argued for the need for a national food policy, and I think the time for debate over that issue is long past.

I have also urged the establishment of a modest food reserve program to reduce some of the volatility of prices which harms both farmers and consumers.

We should also keep in mind that fluctuating agricultural prices also hurt the farmers in the developing countries. Some expectation of stable prices and a reasonable return will serve to encourage agricultural production in all countries.

This is an area of leadership which could lead to important dividends, but the Administration seems unwilling to recognize its importance.

A national food policy must also include an understanding of the relationship between the terms and availability of agricultural credit and farm production.

A food reserve program is also an integral part of a sound food policy to provide reliable supplies of food at reasonable prices, enable us to be a reliable exporter and meet disaster requirements.

These are some of the major inputs which must go into a sound national food policy.

We should also keep in mind that fluctuating agricultural prices also hurt the farmers in the developing countries.

Some expectation of stable prices and a reasonable return will serve to encourage agricultural production in all countries.

This is an area of leadership which could lead to important dividends, but the Administration seems unwilling to recognize its importance.

THE WORLD FOOD CONFERENCE

I am hopeful that the World Food Conference can play a useful role in bringing together these important concerns. I was privileged to play a direct role last year in making the original recommendation that the Conference be held. And I have stated firmly my expectation that this Conference must develop an effective action program to address the world food crisis.

There are important additional issues to be considered by the Conference, such as population growth, and an international food reserve.

The session we are holding here today, also can play an important part in developing the key food issues, and I commend Governor Exon for his leadership in calling together such a distinguished group of participants.

I have stated firmly my expectation that this Conference must develop an effective action program to address the world food crisis.

This past week the Senate Foreign Relations Committee adopted the World Food Resolution, Senate Resolution 329, which I helped originate. It provides Senate guidance for our participation in the World Food Conference as follows:

(1) the contribution by the United States to the growing economic and human crisis in the developing world should be primarily in the form of food and the means and technology to produce it;

(2) the President, the Secretary of State, and the Secretary of Agriculture and their advisors should (a) gives the highest priority to the immediate expansion of American food assistance through the existing authority of the Public Law 480 legislation restoring title I sales and title II grants to at least the 1972 commodity levels and (b) take such additional steps as might be necessary to expedite the transfer of American food commodities on concessional and donation terms to those nations most severely affected;

(3) The President and the Secretary of State should (a) negotiate with other major food exporting nations to seek to obtain their participation in this emergency effort proportionate to their share of world food exports; and (B) strongly encourage oil exporting nations to contribute a fair share to these efforts to assist the most severely affected nations;

(4) The United States should announce its desire to work with the oil exporting and other nations in a major effort to increase world fertilizer production with the possibility of including the offer of American technology and capital;

(5) the President should encourage the American people to reduce the noncritical, non-food-producing uses of fertilizer which now total nearly three million tons nutrient a year, to make available increased fertilizer supplies for raising food production at home and in the developing world.

There are important additional issues to be considered by the Conference, such as population growth, and an international food reserve.

The session we are holding here today, also can play an important part in developing the key food issues, and I commend Governor Exon for his leadership in calling together such a distinguished group of participants.

THE SPECIAL ROLE OF THE UNITED STATES

We also owe tribute to the great productiveness of American agriculture. I know that our farmers will again respond to the challenge at hand.

Our Government can help by encouraging farmers to produce more food. This can be accomplished by establishing programs to provide fair and stable crop prices. We should also give higher priority attention to inputs such as fertilizer, petrochemicals, boxcars, twine, credit and baling wire which have been in short supply and increasingly expensive.

Assistance to the developing nations is another area where leadership is sorely needed. This important area has been to long neglected and misunderstood.

I know that the American people will respond to this crisis if the problem is forthrightly presented and reasonable programs are outlined.

Our task today is to urge the Government to provide leadership and take the right steps. Let's get on with it.

THE APPLICATIONS TECHNOLOGY SATELLITE (ATS–6)

Mr. MATHIAS. Mr. President, 2 months ago today, the most complex, versatile and powerful communications satellite ever developed—the applications technology satellite, ATS–6—was launched from Cape Canaveral. In orbit some 22,000 miles above the equator, the ATS–6 matches Earth's 24-hour rotational period and thus can remain over a fixed point on the globe, in communications view of all the continental United States.

Operating from several selected stations over the next several years, the spacecraft will serve an international community as a special broadcasting station in space. It will be used to test a variety of new space communications concepts. It carries more than 20 technological and scientific experiments, many of them international in scope.

Already, the ATS–6 has demonstrated its immense capabilities.

On July 2, the first educational courses ever taught via space satellite television began with the transmission of color video materials through the satellite. More than 600 graduate-level elementary school teachers in eight Appalachian States are participating in this project that is being conducted by the Appalachian Regional Commission under a grant from the National Institute of Education.

The ATS–6 is also being used for a project to exchange medical information among 10 Veterans' Administration hospitals in six eastern States from Pennsylvania to Georgia. This experiment began formally on July 10, with the first of the Veterans' Administration's scheduled 50 weekly 2½-hour transmissions of consultations, clinical and educational materials to the hospitals, which are relatively isolated because of mountainous terrain.

Marylanders share a particular pride on the ATS–6. First, the overall ATS program is managed by NASA's Goddard Space Flight Center at Greenbelt, Md., where all the satellite's operations are coordinated and controlled. I was pleased to be able to observe the launch on May 30, via closed-circuit television, at the Goddard Center.

Second, the prime contractor for development, integration and test of ATS–6 is Fairchild Industries, of Germantown, Md.

Finally, we are pleased that portions of Western Maryland are able to be a part of the first ATS–6 experimental projects.

After a year's operations within the communications sight of the United States, the ATS–6 will be moved eastward to a point over East Africa for a year's use by the Government of India to transmit educational programs to some 5,000 isolated villages.

In order that the program begun by the satellite in the United States may continue, a bill has been introduced in the Senate that authorizes funding in the current fiscal year for another satellite. I am pleased to support that legislation.

As we mark the 2-month anniversary of ATS–6, we look ahead to many months and years of new benefits to all the people of the world as a result of this mag-

nificent achievement in space communications.

DOLLARS AND DÉTENTE

Mr. CHURCH. Mr. President, I commend to the Senate an article which appeared in the July 1974, issue of the Progressive Magazine, "Dollars and Détente" by Judith Miller, the Washington correspondent of that publication.

The Subcommittee on Multinational Corporations of the Senate Foreign Relations Committee during the months of June and July held 6 days of hearings in connection with multinational corporation investment in large investment projects in the Soviet Union. Miss Miller in connection with this investigation states that:

While detente is currently being attacked in Congress by a bizarre coalition of liberals and cold warriors, the Senate Subcommittee on Multinational Corporations, chaired by Senator Frank Church, Idaho Democrat, has begun the first sober investigation of detente's economic component and its impact on broader foreign policy considerations. The Subcommittee is particularly concerned about the effect of detente on the dangerous trend toward increasing economic concentration within the American domestic economy.

Miss Miller has captured the precise intent of the subcommittee in conducting these hearings. Her article makes the point that there is nothing inconsistent with being in favor of a lessening of political tension between the United States and the Soviet Union, but at the same time questioning the wisdom of U.S. Government subsidizing huge investment projects by multinational corporations in the Soviet Union. Miss Miller's article brings together the salient facts with respect to the proposed financing of these huge projects, particularly the two projects for the development of Siberia's natural gas which would potentially involve approximately $4.5 billion of U.S. Government financing at subsidized interest rates, all for embedded investment in the Soviet Union while the corporations which are promoting these projects would have no investment in the Soviet Union. Their investment would be exclusively LNG tankers which obviously involve a minimal risk factor. In short, this article is a welcome antidote to the artificial dichotomy which is often drawn between favoring political accommodation and questioning economic subsidy which benefits only the Soviet Union and the large multinational corporations at the expense of the U.S. taxpayer. To make political accommodation dependent upon such U.S. Government economic subsidies, in the long run, will simply discredit the cause of détente.

Mr. President, I ask unanimous consent that the article to which I have referred be printed in the RECORD.

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

DOLLARS AND DÉTENTE

(By Judith Miller)

The Nixon Administration's détente with the Soviet Union was forged less than three years ago, but its roots stretch back to a celebrated International Trade Fair in Moscow. It was 1959, and a young, anti-communist Vice President Nixon stood next to Soviet Premier Nikita Khrushchev in an American-style kitchen, arguing about whose system of government would ultimately prevail. The Vice President's close friend, Donald Kendall, president of Pepsico, Inc., hustled the two warring leaders over to his company's exhibition, where he temporarily reconciled the ideological squabble by presiding over a toast to the future with glasses of—what else?—Pepsi-Cola.

President Nixon and Soviet leaders are now toasting the official end of nearly thirty years of Cold War, and the drink is still Pepsi. Thanks to détente, the corporation that gave America its Pepsi generation has now acquired a monopoly on cola sales to the largest new accessible market in the commercial world—the Soviet Union.

For better or worse, Kendall and Pepsi-Cola have come to symbolize the Administration's détente. Although it ought to have meant a reduction of political tension and military rivalry between the two superpowers, détente's principal manifestation so far has been trade. And the primary beneficiaries of the more than $1.4 billion in U.S.-Soviet trade last year have been U.S. multinational corporations, especially those whose chief executives contributed heavily to Nixon's presidential campaigns.

While détente is currently being attacked in Congress by a bizarre coalition of liberals and cold warriors, the Senate Subcommittee on Multinational Corporations, chaired by Senator Frank Church, Idaho Democrat, has begun the first sober investigation of détente's economic component and its impact on broader foreign policy considerations. The Subcommittee is particularly concerned about the effect of détente on the dangerous trend toward increasing economic concentration within the American domestic economy.

Most of the enormous new projects being considered by American multinationals and the Soviets are "industrial cooperation" ventures—barter systems of trade particularly beneficial to the Russians, who lack sufficient hard currency to purchase the American technology they require. In these barter ventures, one or several multinationals provide the USSR with credit to purchase American equipment and technology to develop their natural resources, and are repaid in the natural resource generated by the American investment.

The largest barter project so far is Occidental Petroleum's $400 million fertilizer deal, a commercial coup negotiated by Occidental's President Armand Hammer, who contributed heavily to Nixon's political campaigns. Occidental will supply the Soviets with eight ammonia plants, pumping stations, chemical storage facilities, railroad tank cars, and a 1,200-mile pipeline, in exchange for Soviet-produced ammonia and urea—scarce resources in the United States.

Multi-billion dollar barter projects like Hammer's deal are the wave of the future, according to Commerce Department officials, but raise serious economic and political questions. The dangers of such deals are illustrated by three joint energy projects being considered by American multinational consortia.

A consortium of three corporate giants—Tenneco, Texas Eastern Transmission, and Brown and Root—are negotiating a natural gas venture known as the North Star Project. If agreement is reached with the Soviets, the consortium would construct a 1,500-mile gas pipeline from Western Siberia to a seaport near the Norwegian border, where natural gas would be shipped to the United States. The consortium estimates that the area contains gas equal to about two-thirds of America's domestic reserves—more than enough to justify development. Negotiations are still in an early phase; the consortium and the Soviets have not yet agreed on a price for the gas, nor has the group requested a credit extension from the Export-Import Bank (Ex-Im), the U.S. Government's chief tool for providing credits and loans to finance the purchase of American equipment and technology.

The second project, the Yakutsk Liquid Natural Gas (LNG) venture, involves not only the U.S. giants, Occidental, El Paso Gas, and Bechtel, but Japan as well. The controversial project has two phases: exploration, at an estimated cost of $200–$300 million, and development, which could cost the United States about $3 billion if sufficient gas deposits were confirmed. If reserves justified development, a 2,500-mile pipeline would be built to carry gas from Yakutsk in Siberia to a Pacific port near the Chinese border. There, the gas would be liquefied and shipped in El Paso tankers to the United States, where it would be regasified and sold. Although the Administration and the companies claim these negotiations are far less advanced than are the North Star talks, the LNG consortium has already applied for Ex-Im Bank credit to help finance the American share of the exploration phase. The Japanese, who would split exploration costs with the United States, have already signed a protocol authorizing their participation in the venture if the U.S. participants decide to proceed.

Finally, a third project, also involving Japanese-American participation, would enable the Russians to develop the Tyumen oil fields in western Siberia and ship the oil through a pipeline to the Pacific port of Nakhodka. Japan has already expressed willingness to spend up to $1.5 billion in credits in exchange for the desperately needed oil, but Gulf Oil Co., the American participant, is more reticent about the deal.

Administration officials defend the projects to develop Soviet natural resources, arguing that they would be mutually beneficial and would serve to strengthen détente. Commerce officials say the deals would give the United States access to new sources of natural gas and oil that would not result in an outflow of capital injurious to American balance of payments. Furthermore, it is argued, the Soviet government has guaranteed that all dollars borrowed from the United States would be spent on American technology and equipment, which would boost American production and employment.

The Senate's Multinational Subcommittee staff members, however, object to the plans on different grounds—financing, for one. In the Japanese-American LNG exploration venture, the Ex-Im Bank has been asked to extend credits to the Russians to cover 45 per cent of the American share of the cost; private commercial banks, including Chase Manhattan, have already agreed in principle to finance another 45 per cent, with Ex-Im guarantees. The Soviet Union would pay the remaining 10 per cent. So, although El Paso and Occidental would profit from Russian gas sales in the United States, the corporations would not invest a single company penny in the initial exploration phase. The consortium's only capital investment would be the construction of tankers to transport the gas to the United States, and even tanker construction is heavily subsidized by the U.S. Government. A similar financing scheme has been worked out for Occidental's fertilizer project.

In both projects, the corporations that have negotiated the terms of the ventures do not have a direct financial stake in them. If the deal falls through and the Russians default, the U.S. Government is left holding the bag. Several banks involved in the financing have told the Multinational Subcommit-

tee they are not particularly concerned about whether the investments are profitable or economical, but rather about whether their credits are secure. In most cases, the private bank loans are guaranteed by the Government.

A more fundamental issue raised by this style of financing, especially in the field of energy, is whether the U.S. Government ought to provide low-interest loans of 7 per cent to finance gas and oil development in the Soviet Union instead of in the United States. In Congress, the question is phrased another way: What ever happened to the Administration's plan for energy self-sufficiency, Project Independence?

Administration officials have not yet officially redefined Project Independence, but unofficially they indicate the goal of total energy self-sufficiency must be modified somewhat to enable the Administration to pursue the equally important goal of strengthening détente through expanded commercial relations. Officials also point out that the Soviet Union has an excellent credit record, and would not risk economic warfare with the United States by cutting off natural resources in periods of international tension. This explanation has not impressed the Church Subcommittee staff members.

The Multinational Subcommittee is concerned that important foreign policy considerations are being ignored as a result of the Administration's effort to shore up détente through trade. For example, the Japanese, who receive 40 per cent of their oil from Arab countries, are extremely eager to diversify their energy supply sources. In 1962, Japan was negotiating an agreement with the Russians to extend the Yakutsk oil line to a Pacific port in return for gas, a deal similar to the one Japan and Gulf Oil are now considering. American oil and gas interests attempted to limit Soviet gas and oil exports, and accused the USSR of dumping oil and gas and pricing politically. The United States pressured Japan to back off on her negotiations with the Russians by canceling an agreement to buy jet fuel from the Japanese corporate giant, Idemitsu. Now, the Japanese are once again anxiously seeking participation in U.S.-USSR joint energy ventures. Japan is a participant in the Yakutsk LNG exploration project, but not in the North Star deal. If North Star receives Ex-Im Bank credit, and the LNG venture does not, Japan will once again have been entirely cut out of the new energy market by the United States—hardly an inducement to cordial Japanese-American relations.

The Multinational Subcommittee is concerned about other foreign policy questions as well: What impact will the joint U.S.-USSR-Japan energy projects have on American-Chinese relations? How will such ventures affect U.S.-European relations? In the Tyumen oil field project negotiations, the Russians have been pressing the Japanese and the United States for an agreement to build a railroad rather than a pipeline to deliver the oil. The railroad's terminal would be close to the Chinese border. What effect would such a project have on the already delicate state of U.S.-China affairs?

The Administration has managed to exert substantial control so far over multinational negotiations with the Soviets through several mechanisms. A former White House official has told the Multinational Subcommittee that every venture costing more than $5 million involving the U.S. Government must be approved by the White House. Another unofficial mechanism of Administration manipulation, and one which affords multinationals an inside track on East-West trade, is the U.S.-USSR Trade and Economic Council.

The protocol signed in June 1973, during the Washington summit meeting between Nixon and Brezhnev, called for the establishment of a joint U.S.-USSR Chamber of Commerce to bring Soviet officials and American businessmen together. Both the Soviets and the Americans operate chambers of commerce, and there already exists an International Chamber of Commerce with broad industrial representation which could have served the purpose spelled out in the protocol. Several sources have verified Subcommittee contentions that Administration officials rejected reliance on the chambers because they were too large and could not be directed in the same way a smaller, more exclusive group might be. So instead of using existing institutions, Secretary of Commerce Frederick Dent convened a group of twenty-six chief executive officers of major U.S. multinationals having a direct interest in expanding U.S.-Soviet trade. Pepsi-Cola president Donald Kendall was designated chairman of the organizing board and is now co-chairman of the Council. The group's president is Harold B. Scott, a former Commerce Department official who once served as vice chairman of the Committee to Re-elect the President.

While the Council professes to be open to all companies and committed to expanding its narrow membership base, its fee structure is designed to discourage all but those large corporations already seriously involved in and committed to East-West trade. Council dues range from $1,000 per year for an association membership to $10,000 per year for a corporation with sales of more than $1 billion. Even corporate aircraft giant Boeing has complained about the Council's fee schedule. Although Council officials claim the group does not participate in actual negotiations between Russians and American companies, it admits to steering the Russians toward member multinationals that might provide the Soviet with what they need. The Council will not disclose its budget, but sources report that the Soviets and American companies contribute almost $1 million a year to the Council's operations.

The Nixon Administration possesses mechanisms for dissuading trade it decides is inimical to American national interests. The Commerce Department's export control program has authority to deny export licenses for materials which could make a significant contribution to the military potential of another nation. In 1973 the Department processed 3,046 applications for material destined for the People's Republic of China, the USSR, and Eastern Europe, and rejected 106 applications on such grounds. In addition to the export controls, gas and oil imports must be approved by the Federal Power Commission. The FPC must also approve the price of the imported gas and oil. Once FPC authorization is given to the price negotiated by the multinationals and the Russians, however, the companies would be assured a market for their gas and oil even if cheaper energy sources are located.

The Administration has established a cabinet level East-West Trade Policy Committee, chaired by Henry Kissinger, Jack Bennett, Undersecretary for Monetary Affairs in Treasury, heads the Committee's working group which meets often. The Committee is responsible for coordinating economic policy with the Soviet Union and Eastern Europe and for providing American companies with trade guidelines.

Congress, however, has considerable leverage over such trade. Opponents of détente are attempting to block the Administration's request to extend the Ex-Im Bank's charter for another year and to raise Ex-Im credits from $20 billion to $30 billion. In the House a majority signed a resolution which calls for a moratorium on credits to the Soviet Union until the Senate acts on the Administration's trade bill. The trade agreement negotiated with the Russians in 1972 included a provision enabling the Soviets to establish the Kama Purchasing Commission, U.S. companies to set up commercial offices in Moscow, an exchange of commercial representatives, and, most important, the granting of most-favored-nation—non-discriminatory tariff treatment—to the Soviets. This last provision has been the focus of the House and Senate attack. A bizarre coalition of cold warriors and liberals has formed to deny the USSR most-favored-nation treatment unless it permits free emigration of its citizens, intended to aid Soviet Jews who wish to emigrate to Israel. Several Senators have said that some members of the coalition don't give a damn about the human rights issue but are only interested in killing détente with the Soviets. The Multinational Subcommittee is attempting to avoid aiding those who wish to see detente destroyed and yet to subject the structure of economic détente to public examination and criticism.

NUCLEAR SPREAD IS A WORLD MENACE

Mr. SYMINGTON. Mr. President, a recent editorial in the Kansas City Star, "Nuclear Spread Is a World Menace," points up what could be the problem all nations in the not-too-distant future will have to face up to from the standpoint of their survival.

Thirty years ago, with what has been described as our country's two greatest allies—the Atlantic and Pacific Oceans—the United States had many months in which to mobilize its defenses against a possible enemy.

Now, because of the telescoping of time and space along with the new nuclear force available to modern weaponry, we would be lucky to have a few minutes.

In this connection, let us note that one of the members of the nuclear club who has consistently refused to sign the Non-Proliferation Treaty is reported to have made an agreement with another country, not a member of the nuclear club, to furnish the latter with nuclear reactors which would produce enough nuclear material to give that nation the capability of manufacturing from 200 to 250 Hiroshima bombs per year.

I ask unanimous consent that the editorial in question be printed in the RECORD.

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

[From the Kansas City Star, July 22, 1974]

NUCLEAR SPREAD IS A WORLD MENACE

Who shall be next to blast its way into the "nuclear club" of nations? Intelligence agents of the major powers—and of some minor ones as well—are pondering that gruesome question these days. In Washington there is word that U.S. intelligence analysts rate India and Argentina as prime candidates to develop nuclear weapons.

India disclaims any intentions to produce atomic arms despite that country's May 18 explosion of a nuclear device. The official Indian version is that the tested device was for peaceful purposes such as earth-moving. But some Indian officials and military leaders have long been known to want a nuclear arsenal both for prestige and to intimdate neighboring Pakistan. The Pakistanis are understandably alarmed and so are many other Asians.

The worst immediate result of India's

venture into atomic explosives is that it puts forward a bad example for others. If a country as poor and underdeveloped as India can join the small group of nuclear "have" nations, others that cannot really afford this status seem likely to aspire to it anyway. Red China and France previously set bad examples for India and any other states with atomic military ambitions.

At present the nuclear club has six members—the United States, the Soviet Union, Britain, France, India and China, Argentina, Brazil, South Africa and Israel are thought to be most likely to join the list next if, indeed, Israel does not already posses some kind of concealed nuclear capability. Egypt also may be pointing itself in this direction. Some arms specialists have estimated that there could be 20 nuclear states by 1965 and even 50 by the year 2000.

When the Treaty on the Non-Proliferation of Nuclear Weapons was negotiated in 1968 and entered into force two years later, the intent was to freeze membership in the nuclear club. Obviously it has not worked out as intended even though 106 countries have signed the pact and 83 of them also have ratified it. But there are holdouts, too, and these could upset the present nuclear balance of terror. Obviously a great deal of missionary work needs to be done in behalf of not spreading nuclear weapons until the point is reach when a safe world is no longer possible.

REPEALING THE FORMOSA RESOLUTION

Mr. CHURCH. Mr. President, United States-Chinese relations are presently at a slowed-down pace. At such an interval, buttressing the Shanghai Communique by repealing the 1955 Formosa Resolution would be appropriate.

Robert W. Barnett, former Deputy Assistant Secretary of State for East Asian affairs recently urged this action—legislation I sponsored in the Senate and now before the House—as well as other moves the United States could take increase the snails pace of the Washington-Peking relationship toward normalcy and full diplomatic relations.

I recommend Mr. Barnett's analysis that appeared in the July 24 Baltimore Sun to my colleagues. I ask unanimous consent that the article be printed in the RECORD.

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

[From the Baltimore Sun, July 24, 1974]

BUTTRESSING THE SHANGHAI COMMUNIQUE

(By Robert W. Barnett)

WASHINGTON.—Trust in the Shanghai Communique, as a contract between governments, should be restored. It has been looked upon too much, perhaps, as a private understanding between Secretary Kissinger and Prime Minister Chou En-lai and their principals, whose effective exercise of authority is currently being questioned variously on grounds of failing health, intervention of foreign policy concerns other than Sino-American relations, and the distracting effects of various domestic challenges.

The stabilizing influence of the Shanghai Communique in strategic calculation within the Pacific region is too important to be allowed to depend upon the fragile magic of personalities.

Secretary Kissinger has recognized this need in telling audiences that "despite periodic accounts of supposed ups and downs in our bilateral relations, there should be no doubt in anyone's mind, that from the United States point of view, we remain firmly on course. . . . No policy of this administration has had greater bipartisan support than the normalization of relations between the United States and the People's Republic of China."

Senator Jackson, recently returned from Peking, now favors full normalization of diplomatic relations between the United States and the People's Republic of China. Ambassador Bruce, soon expected in Washington for consultations, perhaps in connection with another visit by Secretary Kissinger to Peking, will report that he hears fears expressed in Peking of Washington backsliding from Shanghai Communique commitments.

Washington's commitment to detente would be reinforced by seeing that a variety of more or less inconspicuous actions begin to originate in various parts of the government—with respect to Taiwan.

The first of several useful moves could be for the Executive Branch to applaud Senate approval of S. 3473 where, in Section Four, the Formosa Resolution of January 29, 1955 is repealed. This resolution is something other than our Mutual Defense Treaty with the Republic of China which commits the United States to defend a treaty area comprising Taiwan and the Pescadores in case of military attack, and is respected silently in the Shanghai understandings.

The 1955 resolution says that if military activity outside of the treaty area could be construed as intended to threaten the treaty area, the President is authorized to employ American armed forces to oppose it. This resolution gave congressional authority for Washington's support of Taipei during the frightening Quemoy crisis in 1958.

That historic crisis planted seeds of distrust between Peking and Moscow: open Sino-Soviet hostility became apparent just a little while later. That crisis also revealed that Quemoy was, from Peking's standpoint, worthless in itself but was a symbol of Peking's and Taipei's common contention that there is but One China—a strategic linchpin.

When as envisaged in the Shanghai Communique, Chinese on both sides of the Taiwan Strait start talking together, Quemoy, with its massive investment in fortifications and manpower will be a part of the business on their agenda. The Executive Branch should applaud a congressional action which says that the future of the offshore islands is their business and their business alone.

Second, the United States should encourage Taipei—the Republic of China—to differentiate detente, which can present constructive tactical opportunities, from rapprochement, which might have far-reaching strategic consequences. Taipei now stands stiffly aside from the detente with Peking being sought by Washington, Tokyo and in many quarters of South and Southeast Asia. In fact, Taipei condemns moves toward constructive foreign relations between Peking and other capitals. It was a petulant anachronism, for example, when Taipei tried to block Tokyo's civil aviation agreement with Peking. Instead, Taipei should recall that even under the almost forgotten Hallstein Doctrine, Bonn traded with the East, and should observe that even President Park of South Korea recognizes that for him to talk with North Korea is necessary within his strategic environment. Washington should inform Taipei plainly that for it not to trade or talk with the People's Republic of China creates a risk of being viewed as a troublemaker within the area, and, in time, a prospect of crippling isolation for itself.

Third, Washington should make for itself frequent opportunity to advertise the substantial reductions of United States military forces on and related to Taiwan and explain that they represent carrying out the general strategic intention of the Shanghai Communique. Doing this would put in context the recent puzzling sale of submarines to Taipei which was, actually, merely completion of a transaction commenced long before the Shanghai understandings.

Senator Jackson may have preempted another move which the Executive Branch should be making—to declare that the longer term American goal, implicit in the language and spirit of the Shanghai Communique, is the establishment of a full scale United States diplomatic establishment in Peking, while preserving something like a United States liaison office in Taipei.

Surfacing this definition of our objective might provoke inconvenient exploration of heretofore intractable questions.

The Shanghai Communique would be reconfirmed significantly, however, in having Washington seem to be declaring that Taiwan should be but another province of One China, with Peking administering China's foreign and defense policies, thus eliminating the Taiwan Strait as an arena for foreign military intervention, while at the same time indicating that the different historical, economic and cultural realities of Taiwan justified political arrangements that allowed differences, and some separateness, for Taiwan.

Both Peking and Taipei might well have objections to any position by Washington, perhaps arguing that it constitutes intervention in China's internal affairs. But so long as the Mutual Defense Treaty of 1954 remains on the books, Washington is entitled to express a view as to what might be done by others to make that treaty irrelevant, unnecessary and obsolete.

Were we to declare this to be our hope and wish, Taipei might act in ways designed to convince the American people that it deserved protection because it had no hostile intent of its own toward anyone.

Meanwhile, Peking might be encouraged to offer to Taipei arrangements which accommodate peacefully the two economic and social systems one to the other, and would credibly end justification for any future United States interference in the internal affairs of China.

RESIDUAL FUEL ALLOCATION

Mr. KENNEDY. Mr. President, the Federal Energy Administration recently agreed with many New England Senators, Congressmen, and citizens on the need to reverse its earlier decision to deallocate residual fuel oil by August 1.

Although the initial decision—following a hearing in which 17 of 19 witnesses opposed deallocation—from FEA was to merely delay its decision for a month, I hope the FEA decision will be to abandon its deallocation proposal entirely in view of the evidence presented.

Along with other New England Senators, I wrote to the FEA urging them to maintain the residual fuel oil allocation program. In reading the testimony submitted to the FEA, I am even further convinced that the interests of New England citizens—who use 25 percent of the entire Nation's residual oil—will be served by maintaining that program.

Because of the impressive documentation presented in the testimony of John G. Buckley, representing the Independent Fuel Terminal Operators Association, on this issue, I would ask unanimous consent that it and several articles on the subject be printed in the RECORD.

There being no objection, the material

was ordered to be printed in the RECORD, as follows:

STATEMENT OF JOHN G. BUCKLEY ON BEHALF OF THE INDEPENDENT FUEL TERMINAL OPERATORS ASSOCIATION

Gentlemen: My name is John G. Buckley. I am a Vice President of Northeast Petroleum Corporation of Boston, Massachusetts. I am a member of the Refining Subcommittee of the National Petroleum Council and was a member of the Emergency Petroleum Supply Committee established last winter by the Office of Oil and Gas; I am a member of the Massachusetts and Rhode Island Emergency Energy Supply Committees.

With me is Mr. Jerome S. Broder, a Vice President of Northville Industries Corporation of Melville, Long Island, New York. Mr. Broder has been in the retail and wholesale fuel oil business for nearly 20 years; he was President of the Long Island Oil Terminals Association for two years and is a member of the Energy Crisis Committee of the Oil Heat Institute of Long Island.

We are appearing today on behalf of the Independent Fuel Terminal Operators Association, which is composed of 18 companies who operate deepwater oil terminals along the East Coast from Maine to Florida.[1] None is affiliated with a major oil company. Members market residual fuel oils (No. 4, 5 and 6 fuels), home heating oil (No. 2 fuel) and gasoline at the wholesale and retail level.

Before discussing the Proposed Rulemaking itself, it might be useful to the Federal Energy Administration if we provided a brief description of East Coast residual fuel oil market and the role of independent deepwater terminal operators in that market.

1. EAST COAST MARKETS

Almost half of the nation's residual fuel oil is consumed in the Northeastern states.[2] Of the national total of 925,000,000 bbls (2,535,000 b/d), 441,300,000 (1,209,000 b/d), or 47.7% is used in the Northeast. New England consumes 173,000,000 bbls, New York, 176,300,000 bbls and New Jersey 92,000,000 bbls.[3]

The remainder of District I [4] consumes about 90,000,000 bbls, or 10% of the national total. Therefore of the total national consumption, nearly 60% takes place along the Eastern seaboard.

Residual fuel oil is a heavy oil,[5] usually transported and stored in a heated state, which has a high flash point (i.e. it burns only at very high temperatures) and is burned in large furnaces. The proportional usage of this product varies from area to area, but the following national totals provide a useful guide: [6]

Use	*Percent share of market*
Electric utilities	47.03
Heating	20.21
Industrial use	15.81
Vessels (bunkering)	8.41
Oil-company use	3.60
Military	2.66
Railroads	0.12
Other	0.96
Total	100.0

In New England, utilities consume 50% of the total residual fuel oil. Space heating (apartment houses, hospitals, schools, stores, office buildings, shopping plazas, factories) account for 30% and nearly 20% is used by industry in manufacturing processing and for the generation of steam.

In the New York, New Jersey area utilities consume 46% of the total; the remaining use relationships are similar to New England's.

Currently U.S. domestic refineries produce approximately 35% of the total consumed nationwide. Imported supplies account for over 90% of the total consumed in the Northeastern states. Of the total imported, approximately 80% comes from Western Hemisphere refineries; Caribbean residual capacity is largely in the hands of two international major oil companies, Exxon and Shell (Asiatic) who control more than 50% of the production. Significant Western Hemisphere capacity is also operated by Texaco, Amerada Hess (Virgin Islands) and BORCO (Bahamas).

Independent role in the east coast market

Independent marketers, particularly terminal operators, play a significant role in the importation, distribution and sale of residual fuel oil in the Northeastern states. Members of our Association own and operate substantial docking, storage, pipeline and transportation facilities for this product. Ten of our members market 58% of the residual fuel oil consumed, exclusive of utilities, in the six New England states and 48% of the residual fuel oil consumed, in the states of New York and New Jersey.[7] Members own or control 18 million barrels of residual fuel oil storage along the East Coast.

In addition other East Coast independents purchase cargo (i.e. tanker) quantities and enter into "throughput" agreements under which storage at deepwater terminals is rented. Independent barge operators and independent dealers also play a significant role in the distribution and delivery of the product. In the case of my own company, Northeast Petroleum, some 90% of the total residual oil handled is sold by us at retail directly to industrial, commercial and residential customers.

2. Comments on notice of proposed rulemaking

The Independent Fuel Terminal Operators Association is strongly opposed to exemption of residual fuel oil from the Mandatory Petroleum Allocation Regulations. We believe that the proposal published in the Federal Register of July 5 is ill conceived and is based on a superficial and incorrect assessment of the residual fuel oil market. Further we believe that the procedures being followed by the Federal Energy Administration violate three Acts of Congress [8] and the substantive bases of the Proposed Rulemaking violate the Emergency Petroleum Allocation Act of 1973.

a. Procedural Defects

The Notice of Proposed Rulemaking contains three procedural defects:

First, sufficient time is not been given for review of the comments being filed by the public. Under the timetable established by the deadline for written comments is Monday, July 22 and the oral hearings are being held on July 22 and 23. The proposed effective date of the deallocation is August 1. Under Section 4(g)(2) of the Emergency Petroleum Allocation Act of 1973 (PL93–159), no recommendation can become effective until it has been before the Congress "at least five days during which the House was in Session and at least five days during which the Senate was in Session," and neither House has taken negative action. July 27 and 28 are Saturday and Sunday, and it is unlikely that the Congress will be in session on those days. Therefore, if the FEA recommendation is to be effective on August 1, it must be submitted to the Congress by the morning of July 25.

Thus, if the oral hearings take only one day (July 22), the FEA has permitted itself two days (July 23 and 24) to review the statements, evidence and data submitted; if the oral hearings take two days, which apparently will be the case, the FEA has permitted itself only one day (July 24) to review the submissions. In actual fact the FEA has allowed itself no time to review the comments since the transcripts of the hearings cannot be available until a day or two after the hearings.

Obviously no serious review is possible. In fact we believe that no serious review was ever planned and that the procedures—comments and oral hearings—are a farce, designed to give some semblance of legality to a decision reached more than a month ago.

The procedures being followed by FEA are, *prima facie*, in violation of the letter and spirit of several Acts of Congress and numerous court decisions.[9]

Second, the Rulemaking was not complete and effective on the date of publication in the Federal Register, July 5, On page 24670 of the Register of that date, the following statement is made:

"The FEA has concluded that current and projected supplies of residual fuel oil from both domestic and foreign sources are adequate to meet demand through the end of this year. The FEA also believes that residual fuel oil may be exempted from mandatory allocation at this time consistent with the objectives of the Act and without creating shortages of crude oil or other refined petroleum products subject to the Act. The data which support these conclusions, and an explanation of the data, are contained in Appendix A of this notice. A more detailed explanation of the FEA's method of estimating supply and forecasting demand and of FEA data analysis is contained in FEO Technical Report 74–3, Residual Fuel Oil Supply and Demand Forecasts, July 1974—December 1974, copies of which may be obtained from the Office of Public Affairs, FEA, Washington, D.C. 20461."

From July 5 to July 15—a period of 10 days—repeated attempts were made by our Association and by other persons to obtain a copy of FEA Technical Report 74–3. It was simply not available. We were given a variety of reasons for its unavailability: It didn't exist; it existed, but the public couldn't see it; it had not been finished.

The primary fact is that it was not available for inspection and review by the public. The statement with reference to this Report in the July 5 Federal Register was incorrect, and it was made available only 7 days prior to the date for filing comments; many witnesses obviously did not have sufficient time for review.

There is no doubt that this document is vital; it provides the public with critical information needed to assess the basis and accuracy of the supply and demand data developed by FEA, and on which FEA based its decision to remove controls from residual fuel oil. Full opportunity for review and analysis of the Technical Report should have been provided, as a matter of fairness, equity, and of law.

Further, the failure of FEA to make the Technical Report available as announced raised serious doubts as to its existence as a completed document on July 5. And if it did not exist in completed form on that date than the reliability and integrity of the statistics set forth in Appendix A (Federal Register, July 5, 1974, pp. 24671–73) of the Proposed Rulemaking are subject to serious question.

Most important of all, the Rulemaking was not complete and therefore was not legally effective on July 5.

Third, the public has not been given an acceptable opportunity to request to appear at these oral hearings. On page 24670 of the Federal Register, the following statement is made:

"Any person who has an interest in the subject of the hearing, or who is a representative of a group or class of persons who has an interest in the subject of the hearing, may make a written request for an opportunity to make oral presentation. Such a request should be directed to the Executive Secretariat and must be received before 4:30 p.m. e.d.t., July 15, 1974. Such a request may be hand delivered to Room 3309, New Post Office Building, 12th and Pennsylvania Av-

Footnotes at end of article.

enue, N.W., Washington, D.C. . . . or may be submitted by Telex (710-822-0155)."

As we determined[10] this is not a Telex number at all; it is a TWX number. And the number is wrong; the correct number is substantially different.

The corrected number was never published in the Federal Register. Thus many persons seeking to testify may not have been able to register their requests with the FEA.

This is another example of the fatal defects of the Rulemaking and of FEA's lack of interest in receiving and reviewing comments from the public.

b. Substantive Defects

The Natice of Proposed Rulemaking contains six serious substantive defects:[11]

First, it fails to propose that residual fuel oil be exempted from price controls at the same time that it is exempted from allocation controls. This is a clear violation of Sections 4(a) and 4(g) of the Allocation Act.[12] Congress intended that price and quantitative controls be imposed together and removed together. Removing allocation controls alone would place independent marketers of residual fuel oil, such as ourselves, at a severe competitive disadvantage and would lead to a revival of the chaotic conditions that led Congress to adopt the Allocation Act last year.

Second, the Proposed Rulemaking provides no analysis of the impact of deallocation on the price of residual fuel oil. Even in the Technical Report 74-3 cited in the rulemaking as the ". . . more detailed explanation of the FEA's method of estimating supply and forecasting demand . . ." there is no analysis of price impact.

Indeed, on page 6 of the Technical Report, in attempting to explain how demand is forecast, the FEA states: "a structural demand equation explains how much fuel users would desire to consume given the values of many important parameters, most especially the market prices of residual fuel and other competing energy sources. In combination with factors influencing supply, a structural demand equation would permit an estimation of equilibrium market price and quantity. The forecasting equation used here is incomplete with respect to identifying both equilibrium price and quantity" (Emphasis added).

This language makes clear the failure of the Technical Report to assess the impact on prices.

The Technical Report goes on to state "Forecasts of market prices are not attempted." That sentence is easy to understand, the sentence that follows it, however, is a gem of economic jargon; it reads as follows: "As discussed below, the omission of price from the forecasting equation necessitates the accounting for price effects via exogenously determined adjustments to the forecasting equation." If that is not clear the following two sentences may help. The first reads, "The demand equation used is adjusted for these exogenous influences." That is very helpful to know, but nowhere does it explain how the demand equation used is adjusted for these influences. Finally, the paragraph ends up with a statement, "As a result the adjusted demand estimate is complete." While the FEA may feel the adjusted demand estimate is complete, it simply is not. In fact FEA's analysis in the FEA Technical Report and in the rulemaking in the entire area of price is obviously incomplete. The absence of any meaningful price analysis is an inexcusable omission.

The Actual Impact on Price

It is essential to look at the impact of the proposed deallocation on the consumer of residual fuel.

Footnotes at end of article.

First, it is clear that there will be increases in the price of residual fuel purchased by independent deepwater terminal operators for sale to the industrial, commercial and residential market in the Northeastern United States. Exactly how much prices will go up depend on the grade of residual fuel in question. We believe the price for high sulphur level residual fuel, (2.5% to 2.8% sulphur and higher) will rise the least, while the price for the lower sulphur residual fuels, (that is .3, .5, and 1% sulphur residual fuel oil) will rise more dramatically.

Price of High Sulphur Fuels

We should first like to examine the high sulphur residual fuels such as the 2.5 to 2.8% grades. Denied access to these high sulphur fuels under the Mandatory Allocation Program, independents seeking to replace lost supplies in the marketplace will, invariably, turn again to the Caribbean area, to the same suppliers who are now required to supply at cargo contract prices under the Program. However, since independents will not be buying under contract nor will suppliers be required to supply at the normal cargo contract prices, as they have been under the allocation program, the independents will be forced into the spot market.

Current Spot Market

Today's spot market price for 2.8% sulphur fuel in the Caribbean lays product into New York or Boston harbor at about 35 cents to 40 cents per barrel higher than the current cargo contract price.

That means that the elimination of the Program will automatically and immediately result in a 40 cent per barrel price hike for independents.

But that is not the end of the possible price increases. The spot market is a relatively thin market. By that we mean that the great bulk of residual fuel moved from the Caribbean to world markets is moved under contract and only a small volume is moved on the spot market. Thus any sudden increase in demand for spot cargos causes a quick upward adjustment in prices. It may be recalled that last fall and early winter, when it became clear that residual fuel made from Arab crude oil would not be arriving in the United States because of the embargo, the spot market price for residual fuel in the Caribbean rose dramatically, to over $20 per barrel. We do not suggest that the current spot price for high sulphur residual fuel of approximately $9.90 per barrel (f.o.b.) Caribbean will again rise to the range of $20 and above. However, we firmly believe that the current 40 cents differential between spot and cargo prices will grow to at least $1 per barrel and perhaps more.

Unfortunately this high sulphur content fuel cannot be used in most markets of the Northeast. Restrictions under the Clean Air Act have, as FEA knows, reduced the sulphur content of residual fuel permitted to be used legally in most of the heavily populated cities and states on the East Coast. At the present time in the New England market only Maine allows sulphur levels as high at 2.5%. The higher sulphur residual fuels are also, of course, used for bunkers (i.e. propulsion fuel) for vessels. Thus the bunker market and the more sparsely populated regions in Maine or in upstate New York are the areas that will be adversely affected by the higher spot price for high sulphur residual which already exists and which we believe will grow if mandatory allocations are removed as proposed in the Rulemaking.

Shortage of Low Sulphur Fuels

Replacing supplies of low sulphur fuel will be much more difficult—and more costly. Before we explain the world market price trends that affect the lower sulphur residual fuels, we should like to express grave doubts about the basic assertion in the FEA rulemaking—that there is ample supply of residual fuel for the balance of this year. In fact the very low sulphur residual fuels are not available in sufficient quantity even at the present time. For example, my own company, Northeast Petroleum, has had great difficulty in obtaining sufficient quantities of .5% sulphur fuel for the Boston market. Indeed, we are currently operating under a waiver from the State of Massachusetts to allow us to use higher sulphur residual fuels than normally permitted under the Clean Air Act. Thus the FEA assertion that supplies are adequate is wrong, in large part because it fails to take into account the different supply levels for different quality or different sulphur level of residual fuels.

Replacement of Low Sulphur Fuels Supplies

We, as independent terminal operators face serious problems in replacing the lower sulphur residual fuels lost if the mandatory allocation program is abandoned. There may be some who think the major suppliers of lower sulphur fuels in the Caribbean will "volunteer" to continue supplying the independents with their total requirements. A look at recent history does not make us hopeful the majors will voluntarily make their limited supplies of low sulphur residual fuel available at equitable prices. Indeed FEA had to issue direct orders to get these majors to begin supplying us under the mandatory program earlier this year.

The FEA is mistaken in concluding that the major companies have changed their attitude. The experience of independent marketers in Europe at the present time serves to illustrate our point. Attached to this statement is a news article from Petroleum Intelligence Weekly dated July 15, 1974 which makes the point clearly.[13] The article states that independent marketers in Europe are being forced to consider new approaches to product supply, because they are encountering ". . . growing reluctance by the major oil companies to renew long-term agreements, and face high prices and thin volume on the spot markets."

The article continues by outlining efforts by independent marketers in both West Germany and Holland to improve their supply situation. It also notes that the Dutch Economics Ministry has ordered nine oil companies to supply gasoline to one large independent gasoline chain at a specified price and that the Ministry is studying applications from about 20 other independents asking for similar orders. The Dutch Government was forced to take this action because the Government's allocation program instituted during the embargo crisis had expired and the independent marketing company in question found "it was unable to make new supply agreements." Thus the Dutch Government ordered nine refiners to sell gasoline to the independent. Shell Oil appealed the order to the Council of State but was turned down. The Dutch Government indicated in its decision that it wants "to maintain a viable, independent segment of the market." If that language sounds familiar it is because it is one of the prime objectives of the Emergency Allocation Act—an objective which this Rulemaking will undercut.

Independent Distribution Function

The reason independent marketers such as ourselves have been able to fulfill their normal distribution function with respect to residual fuel oil this year is that the allocation program has required major refiners to supply residual fuel at the same level as in the base year, 1973. If mandatory controls are lifted, we do not expect the majors to step in and take care of our needs voluntarily. Nor should the FEA expect it.[14]

If the FEA removes allocations on residual

fuel, independent terminal operators will be forced to go to the European market to try to buy low sulphur residual fuel supplies from independent refiners operating there. These refiners do have a good deal of spare refining capacity at the present time. In fact, many independent refiners in Europe have slashed their refining runs sharply in recent months. So there is no question that there is the supply capability in Europe. The more critical question is: at what price?

Higher Prices for Independent Marketers

In order to understand why independent marketers such as ourselves will have to pay much higher prices for low sulphur residual fuel one has to understand the economics facing an independent European refiner today. Most of these refiners do not have elaborate or complex desulphurization capacity in their refineries. To make low sulphur fuel they must use a large proportion of low sulphur crude oil. The low surphur crude oils, such as Libyan, Algerian and Nigerian, are unfortunately the highest-priced crudes in the world today.

Moreover, even the lower-priced Middle East crudes cost the independent refiner a lot more than they cost the major companies operating in those Middle East countries. This is true because the majors still have a sizeable volume of so-called "equity" crude oil. The majors are today buying increasing quantities of "participation" or producing government-owned crude at high prices. But the weighted average cost of all their crude purchases is relatively low. As indicated, the reason, is that their "equity" crude is acquired at much lower cost than "participation" crude.

Independent Refiners Pay More for Mid-East Crude

Attached is an article from The New York Times of Saturday, July 20, which shows these numbers rather clearly.[15]

This article comments on the fact that British Petroleum and Gulf Oil have just reached a new agreement with the Government of Kuwait to purchase crude from Kuwait at 95% of posted price. The 95% figure works out to $10.95 per barrel f.o.b. Kuwait. The article also notes that the equity oil owned by Gulf and BP cost the two companies about $7.50 per barrel. Gulf and BP receive 40% of Kuwait's production in the form of equity oil. Thus the weighted average price for all Kuwait crude oil lifted by BP or Gulf will work out to $9.57. That is a high price but it is a $1.38 per barrel lower than the price an independent refiner would have to pay in purchasing oil from Kuwait. Obviously Kuwait is not going to sell its participation oil at a price any lower than the $10.95 BP and Gulf have agreed to pay. So the independent refiner starts out, depending on the country involved, at a $1.25 to $1.50 per barrel higher crude oil cost.

Quite apart from the higher crude cost borne by the independent refiner in Europe, he is also squeezed in another way, on the revenue or income side. The problem is that the independent refiner cannot take foreign crude oil an . turn it all into low sulphur residual fuel. When the crude oil is run through the refinery, gasoline and gasoil (home heating oil and diesel fuel) are also produced. With a typical light crude feed stock, the European independent refiner will probably achieve no more than a 50% yield of low sulphur residual fuel. The balance of the output will be in light products.

European Conditions Affect U.S. Prices

For simplicity one can assume that the balance of products are roughly 25% gasoline and 25% gasoil. In actual practice these volumes will vary depending on the type of crude oil run and the sophistication of the refining facility. Under our assumption 25 barrels of gasoline, 25 barrels of gasoil and 50 barrels of low sulphur residual fuel will be produced for each 100 barrels of crude run at the plant. The gasoline and gasoil can either be sold by the independent refiner in his local market for local consumption or it can be exported. If it is sold in the local market in most cases it must be sold under price controls similar to those that exist on refined products in this country. At the present time those price control levels are set so low on products in many European countries that independent and major refiners alike are having great difficulty in avoiding losses on their sales.

For example, the President of Shell's affiliate in France recently told a Parliamentary Energy Study group that the average price of oil sold in the French market is about 80 francs a ton below what it should be.[16] Eighty francs per ton is about $20 per ton or $2.65 per barrel.

Even if we assume that Shell's President exaggerates a bit and is trying to include a substantial profit element in his 80 franc-a-ton figure, it would appear that product price controls in France are causing about a $2.00 per barrel loss to the refiner at present crude oil purchase prices.

In Italy the situation is similar. In fact, just last week the French International Company, CFP, suspended imports of crude oil into Italy due to "inadequate Italian product prices" and indicated it may shut down its Mantua and Trieste refineries next month unless there is a product price readjustment. CFP spokesmen have pointed out that the company's cost are competitive both for crude supply and for refining and marketing but it says it is losing some 5 billion lire ($7.75 million) on each million metric tons of crude it runs through it's Italian refining and marketing operation. That works out to about $1.20 per barrel loss on every barrel sold.

European Residual Fuel Will Cost More

Our point is this: Any independent refiner asked to run additional crude in order to manufacture low sulphur residual fuel for U.S. independents, will look not only at how much he must charge for the residual fuel but at how much extra he must charge to make up for his losses on products sold into his own domestic market under price controls.

Of course, the European refiner can choose to export his gasoline and gasoil manufactured along with the low sulphur residual fuel. Here, however, the problems are even more critical for the refiner. Gasoline prices and heating oil prices have fallen sharply in Europe in recent weeks and at the present time exports of gasoline or heating oil cannot be expected to earn the European refiner any more than $12.50 per barrel for regular grade gasoline and perhaps $11.50 per barrel for gasoil.

If such a refiner is buying Algerian crude at $13.00 f.o.b. Algeria, shipping it to his refinery for 30 cents per barrel, processing through his plant at a cost of 50 cents per barrel and wishes to make only 20 cents per barrel profit, he will have to receive an average on sales return of $14 per barrel. As indicated above, half of his output, gasoline and gasoil, will net him an average of only $12.00 per barrel today. Thus, to be induced to run additional crude and manufacture low sulphur residual fuel, such a refiner must earn $16.00 per barrel on his residual fuel to average out at $14.00 overall. The current cargo price for 1% sulphur No. 6 fuel oil in the Caribbean is $12.15 per barrel. The current price for ½ of 1% sulphur fuel in the Caribbean is about $12.85 per barrel.

Independents Forced to Pay $3 Per Barrel More

Obviously, if U.S. independent terminal operators are to induce European refiners to manufacture substantial new volumes of low sulphur residual fuel, such terminal operators will have to pay $3 or more per barrel than the current Caribbean cargo price.

Payment of such high prices will put the independent in an intolerable competitive position. Such massive price increases must be passed along; they cannot be absorbed by the independent. Thus the FEA under a law designed to protect the competitive viability of the independent marketer will by its actions achieve exactly the opposite result.

Our market share will be eroded sharply as the majors take our customers away with lower-priced residual fuel. Such erosion was occurring early last winter, prior to the imposition of mandatory allocation. It will start again if allocations are removed. In my own company's case, our "rack" price for 1% sulphur residual fuel reached $14.68 per barrel early this year. This was well above the average major rack price. Under mandatory allocations, we got back supplies from the majors at lower cost and have been able to drop our price to a competitive level of $12.73 per barrel. The mandatory program achieved the purpose intended by the Congress—it halted the erosion of market share, assures us lower cost product, and enabled us once again to become a competitive viable marketer. After a short six month period FEA now proposes to reverse the process.

Finally and quite apart from the negative impact of the proposed rulemaking on the independent marketer, there will also be a severe inflationary impact on the American Consumer, the ultimate user of this product.

Impact of Mandatory Price Regulations

One further comment: the FEA analysis completely ignores the impact of the Mandatory Price Regulations (Part 212, FEA Regulations). It is simplistic and incorrect to say that, since residual fuel oil is for the most part produced abroad—and therefore not subject to U.S. laws and regulations—the FEA price rules have no impact. The price rules do affect the prices which can be charged for residual fuel oil by companies operating within the United States.

Therefore, the FEA must, in its amended, supplemental analysis include an assessment of the impact of the Proposed Rulemaking on:

The delivered cargo contract price of residual fuel oil, c.i.f. domestic ports.

The spot price of residual fuel oil at domestic ports.

The f.o.b. control price at various foreign refineries, plus transportation to U.S. ports.

The spot market at various foreign areas, plus transportation to U.S. ports.

Third, the Notice of Proposed Rulemaking is based on an incomplete and incorrect study. FEA Technical Report 74-3 is offered as the primary supporting document, justifying the decision to exempt residual fuel oil from the Mandatory Allocation Program. Even a superficial examination of the Report reveals many flaws and uncertainties. A more detailed examination shows it inaccurate and inadequate and cannot be offered in support of this major policy change. It is extremely simplistic and bears no relationship to the realities of the world oil distribution system.

General Comments

Before examining the shortcomings of the Report, we would like to make some general observations about supply and demand for residual fuel oil over the next winter season. First, on the demand side, it is significant that the FEA Petroleum Industry Monitoring System (PIMS) monthly petroleum re-

Footnotes at end of article.

port dated May 31, 1974 shows that in the month of May, for the first time this year, demand for residual fuel equalled the volume consumed in the same month as 1973.

Ordinarily one would expect demand for residual fuel to be higher in 1974 than in 1973, but this has not been an ordinary year. The impact of the oil embargo and the FEA's own conservation program have kept consumption for the first four months of this year at levels substantially below 1973 demand. As noted by the PIMS report that has now changed and we are back to 1973 levels. Whether U.S. demand will rise above the 1973 levels is still not certain and is partially dependent on how much of the conservation effort continues. There are however some signs that demand will be growing for the balance of the year and is likely to exceed 1973 levels for the next 5 months.

Electric power generation, which in the Northeast leans heavily on the use of residual fuel as the primary energy source, now edging up to levels above the corresponding month in 1973. Earlier this year conservation had kept electric generation and use at levels lower than those a year ago. Moreover, some of the electric plants that had turned to coal during the energy crisis earlier this year are now switching back to oil because coal does not meet the new statutory standards on sulphur levels. These factors, along with a certain measure of industrial growth and the unavailability of alternate fuels, has put the demand curve for residual fuel back on the 1973 track.

Thus, if there were no unusual events residual demand would stay at about the 1973 level or possible slightly above for the balance of this year.

Unusual Demands for Residual Expected

However, there will be unusual demands for residual fuel—over and above the predictable use for this fuel.

We refer specifically to the fact that natural gas is falling further and further behind in meeting its share of the energy market. The most recent Federal Power Commission data shows that for the period November 1974 through March 1975 the interstate gas pipe lines expect firm curtailments to industrial and utility users to be some 81% higher than the curtailments forecast a year ago. This data shows that natural gas supplies equivalent to some 900,000 b/d of residual fuel oil will be curtailed during the five winter months, November 1974-March 1975. The industries and utilities affected by these cutbacks will of course have to switch to alternate fuels—and, for most, that means residual fuel oil.

If the weather is colder than normal this winter (and we are over-due for a cold winter) demand for residual fuel itself will be somewhat higher; but residual use is not overly sensitive to weather since much of it is not used for space heating. However natural gas use is extremely sensitive to weather. Thus a colder than normal winter will force far larger curtailment of natural gas supplies to industry and to the utilities and result in a far greater need for additional residual fuel.

EFFECT OF COAL STRIKE

Demand could also rise sharply if, in fact, a coal strike does occur in the United States this fall—particularly if it is of long duration.[17] There are a number of coal users with dual burning facilities and those plants will switch immediately to residual fuel. While no accurate data is available on the total volume likely to be switched, an informed guess might be 150,000 to 250,000 b/d of extra residual fuel use from such dual burning facilities. In addition, if utilities in the Middle West run short of coal, power generated by oil-burning electric generating facilities on the East Coast will be wheeled from the East to the Midwest in a pattern exactly the reverse of that which occured last winter. This of course will mean additional electric generation demand on the East Coast and additional residual fuel to make the added power available.

SUPPLY SITUATION

We would like to examine the overall supply situation briefly. In examining supply one must of course differentiate between the various qualities of residual fuel oil. The supply situation for high sulphur (2.5 to 2.8%) residual fuel is quite different from the supply situation for very low sulphur (.3 or .5 of 1%) residual fuel. Similarly, supply of so-called "high pour" residual fuel used by utilities is different from the supply picture for "low pour" residual fuel oil used by industrial, commercial and residential customers.

Low Sulphur Residual Supplies Tight

At the present time supplies of the low sulphur residual fuel oil are still very tight. The very low sulphur, low pour residual fuels are so tight, in fact, that my own company is currently operating on a waiver in two states in New England so that we may burn higher sulphur residual fuels than those normally called for under the Clean Air Act. We have simply been unable to cover our requirements with the appropriate low sulphur fuel. Supply uncertainties will be exacerbated, of course, if a coal strike seems likely because there will be substantial stockpiling in anticipation of such a strike.

There are a number of other uncertainties which affect the supply picture. One critical factor is the current two-tier crude oil pricing system abroad. That two-tier system comes about, as discussed in the pricing analysis section of this testimony,[18] because the participation arrangements in many of the major producing countries provide that the major companies still get a sizable proportion of their total crude supplies at an "equity" price which is far lower than the "participation" price charged by the producing countries for direct sales. Independent refiners must of course pay the "participation" price to the producing country. Today that price is $1.25 to $1.50 per barrel higher than the weighted average price paid by the major oil company for the same crude oil. Independent refiners in Europe have found these price differentials are as much of a problem for them as for U.S. independent refiners. And these foreign independents find themselves under great competitive pressure and in many cases have cut their crude runs to a minimum.

If that situation continues for the next several months, there will be much less residual fuel oil manufactured. That, in turn, will reduce total supplies available for importation into the United States.

Uncertainties in Middle East

Finally there remains the uncertainty surrounding the Middle East peace settlement. All of us have been heartened by the progress made in separating Israeli, Egyptian and Syrian troops. But this is merely the first step towards a permanent peaceful settlement. The next steps will be harder—politically more difficult. The risk of renewed war or a renewed oil embargo remains high. Only last weekend, the Saudi Arabian Oil Minister, Sheik Yamani, raised the possibility of another cut-off. Those who would dismiss his comment might recall that the Sheik made the same comment in April, 1973—and was ignored. Our failure to heed his warnings is a painful part of recent history.[19]

Residual Fuel Supplies Vulnerable

The United States is extremely vulnerable to short run changes in supply of residual fuel because of the very limited residual fuel storage facilities now in place in the United States. At the normal winter demand level of slightly in excess of 3 million b/d we have only 20 days storage capacity. This is a thin margin. And in view of both the domestic and international uncertainties about supply, removal of residual fuel allocations on August 1 is very risky.

The Royal Dutch Shell Company stated it best, in the July 16, 1974 Platt's Oilgram Price Service:[20]

"... whether the U.S. has sufficient supplies of petroleum for the rest of this year is beyond the control of this country's Government or the oil industry. The balancing factor is imports and their availability depends on the actions of other producing and consuming nations. Currently, supply and demand seem to be approaching a balance, but no one as yet knows whether this is temporary or not. We shall have to wait and see, to give the world economy time to stabilize. One thing is sure: we shall have to learn to live with uncertainty.

"If we come to the end of the year without a crisis, it should not be taken as indicating the end of the nation's energy problems. They are not ending; they are just beginning and will be years in resolution."

FEA PIMS Monthly Report

We like to turn again to the PIMS Monthly Report dated May 31, 1974. On page 3 of that report, the FEA states with respect to residual fuel oil:

"The supply-demands situation for residual fuel oil is about the same as last year. A continued curtailment of demand is necessary to maintain residual supplies at stable levels."

We believe that FEA statement is accurate. We believe the Shell comments about uncertainty are accurate. In the light of both the FEA statement and the many uncertainties facing us as an industry and as a nation, we cannot understand how a mere ten days after the date of this PIMS Report, the FEA could have recommended decontrol of residual fuel effective August 1 based on the conclusion that supplies are plentiful.

FEA Technical Report 74-3

Those familiar with this report will have noted that our own demand-supply assessment differs sharply from the statistics developed by the FEA.

The first deficiency in the report is that the data assembled covers only the six month period July 1974 through December 1974. The FEA apparently ignores the fact that winter is not over in December. Any meaningful analysis must be carried through the first quarter of 1975 as a bare minimum time parameter.

Our second specific criticism relates to the volume of imports shown in July, August and September. The report projects imports of 2.1-million b/d during those three months. This statistic ignores that realities of the oil industry.

The FEA's own PIMS Report of May 31, 1974 shows (at p. 20) that import levels during these months in 1972 and 1973 never exceeded 1,850,000 b/d. (August 1973). Further, at today's prices and interest rates no one imports any more residual fuel oil than he must. Taking the seasonal demand pattern into account it would be far more logical to show imports at 1.9 million barrels per day during this three month period. The 2.1-million figure is clearly unsupportable, we are now two-thirds through July and imports have been running at the 1.6 to 1.8-million barrel per day level—far below the 2.1-million level in the Technical Report.

Footnotes at end of article.

We should next like to comment on the demand assumptions noted on page 8 of the Technical Report. The report states that a number of influences tend to reduce demand and lists the influences as follows:

1. *Oil coal switching by utilities.* Attached is an article from the New York Times dated Thursday, July 11, 1974 by Edward Cowan.[21] Mr. Cowan reports that the second ranking official of the Environmental Protection Agency, John R. Quarles, states that "only a few" East Coast electric utilities will under new statutory standards qualify to fuel their boilers with coal rather than oil. Mr. Quarles acknowledged that one recent analysis by his Agency put the number of eligible power stations at two. Obviously the amount of switching by utilities from oil to coal is not going to reduce demand for residual fuel by any measurable amount.

2. *Wheeling of base load.* This is the allusion to the practice widely used last winter of taking electric power generated in one part of the country and moving it from one power company to the next across the country to an area where power is short. It is an extremely expensive process and was used last winter only because many East Coast utilities were extremely short of residual fuel oil; they needed any power they could get regardless of the price. It will not reoccur this year unless there is another residual fuel oil supply crisis.

There may, in fact, be a *reverse wheeling* of power if the United States suffers a coal strike. In the event of a prolonged coal strike, Midwest utilities fueled by coal might well take power from the East Coast utilities who generate their electricity with residual fuel. This, of course, would *increase* not reduce demand for residual fuel.

3. *Residential heating and air conditioning conservation.* The use of residual fuel directly for heating does not account for a large share of total residual fuel use. The FEA's own analysis shows that rather dramatic changes in the weather have only minimal impact on demand for residual fuel. With respect to air conditioning conservation, I can only note again that our total electric power generation, which ran behind 1973 levels during the crisis period, has now risen above 1973 levels. Thus we can expect very little, if any, reduction in demand for residual fuel because of this factor.

4. *Conservation Efforts by Industry.* This is one of the listed factors with which we would agree. Industry has conserved and will continue to conserve residual fuel in order to save on total fuel expenditures which have more than tripled in the past eight months. However it might be noted that industry's conservation effort is a one-time saving; once the cut-back has occurred, as industry expands total demand growth rises. In any event industry uses only about 16% of residual fuel oil, so that a 10% reduction through conservation will result in an overall reduction in residual fuel oil use of only 1.6%.

5. *The effects of Higher Prices.* Here again it is clear that at the present time world demand for all petroleum has been reduced somewhat by higher prices. However, we would be surprised if there were further reductions in demand, since people are becoming accustomed to the higher prices. In fact gasoline demand and electricity demand are now rising.

IMPACT OF THESE FACTORS

The FEA itself admits that these five listed factors are hard to quantify and notes that there is ". . . a divergence in opinion with respect to the relative role that each would play in reducing current demand." The Report then goes on to "extrapolate historical usage patterns" and come up with a 250,000 b/d reduction in demand in the third quarter of 1974 and a 375,000 b/d reduction in the fourth quarter. These numbers must have been invented. There is simply no supporting data to indicate how the numbers were arrived at and what part each of the above assumptions played in reaching them.

Possible Increases in Demand

Moreover, the Technical Report totally ignores the factors that could cause an increase in residual fuel use. Chief among those, as discussed earlier in this testimony, is the near certainty of a 81% increase in natural gas curtailments during the November, 1974–March, 1975 period. The increase in curtailments alone is equivalent to 400,000 b/d of residual fuel use, and represents a 13% increase in residual fuel demand.

In short, the 375,000 b/d reduction estimate in the Technical Report is a guess. Even as a guess, it is a poor one, unsupported by any statistical evidence and wholly ignoring a number of significant demand factors.

Our own estimate is that residual fuel demand will be higher, perhaps significantly higher, than in 1973 for the rest of 1974 and the first quarter of 1975.

The "Base Case" in the Report

We would now like to turn to page 12 of the Technical Report which highlights the "base case" residual fuel oil supply and demand forecast. Under the column marked July, note that 2.1-million b/d of imports are shown. We have already commented on that number and pointed out that API statistics shows that through the first half of this month imports have been from 1.6 to 1.8 million b/d.

Next we refer to one of the most glaring errors in the whole Technical Report: the inventory column which shows an opening and closing inventory balance in millions of barrels for each month. Note that the month of July opens with an inventory balance of 68.3 million barrels. The FEA's own PIMS Report, by contrast, shows a closing balance on May 31 of the 52.3-million barrels. To have reached the 68.3 barrel level, some 16 million barrels of extra residual fuel oil would have to have been stored during the month of June. Obviously that did not happen. In fact API statistics for the week ending July 12, 1974 show inventory of residual fuel of 56.9 million barrels.

In effect, we are already some 11.4 million barrels behind the schedule of the Technical Report. Since inventory normally plays a balancing role in spreading supply over seasonal highs and lows in demand, this error is a serious one indeed.

Serious Errors in Inventory Projections

But the misstatement of opening inventory balances in July is a relatively minor error compared to the next one. That is the assumption that inventory would rise during July to 86.1 million barrels. The Bureau of Mines data for the last six years shows that the highest inventory ever reached—at any time of year—for residual fuel was 68.5 million barrels. There is a reason: the total primary storage capacity in the United States today for residual fuel is 68–70 million barrels. In other words once you reach the 68-million barrel level, all storage is full.

We cannot therefore understand how inventories in July can reach to 86.1-million. Or how inventories can rise in September to 103.5 million barrels as stated in the FEA Technical Report. It is impossible. The authors of this report apparently neglected to put constraints on their computer model and simply let inventory build up without regard to the actual physical storage capacity available in the country.

This glaring error obviously negates all of the other figures shown in the table and totally destroys it as a meaningful analysis. One cannot draw down inventory from a base of 103.5 million barrels of inventory if in fact maximum primary storage holds only 68 million barrels. More serious is the fact that with only 68–70 million barrels of total storage capacity available to us as a nation, we cannot afford the luxury of "experimenting" for 90 days with decontrol just to see what happens. Such a course is irresponsible particularly when based on an erroneous Technical Report.

Serious Supply Problems

The supply problems facing the United States are far more serious than shown in the Technical Report. With only 20 or 21 days of total storage capacity when storage tanks are full, it takes very little drawdown before supplies become very tight and shortages start occurring.

It is essential therefore to take a realistic look at what could happen next winter. One can start by assuming that the demand-supply forecast should run through the first quarter of next year; further by assuming that the supply numbers shown in the Technical Report for the month of November of 2.931-million b/d and the supply shown for the month of December of 3.191-million b/d are too low; and further by assuming that U.S. refinery output can increase quickly and supplies of residual oil can reach 3.2-million b/d in November and 3.3 million b/d in December and continue at that 3.3-million level through January, February and March. These assumptions give the FEA the benefit of the doubt since they are much higher than the supply figures shown in the Report.

It must, however, be recalled that FEA's demand figures include a dubious reduction for the fourth quarter of 375,000 b/d. As indicated, we do not believe those numbers are justified, nor that a convincing case has been made to show where that reduction comes from.[22]

In fact in listing all of the constraints on demand, FEA forgets to list any factors which could lead to an increase. We have previously mentioned several—a coal strike, increased industrial activity, failure of electrical conservation programs, and most important, natural gas curtailments. The natural gas impact is known. The FPC puts curtailment for the five months starting November 1 at an average rate of 900,000 b/d of residual oil equivalent.

Thus, it seems clear that the 20% case shown on page 16 of the Technical Report as the outside possibility is in fact a very conservative case. The increased natural gas curtailment by itself is equal to a 13% demand growth factor. If the 375,000 b/d reduction assumed by FEA, is proven wrong, this would add another 12.5% to demand. Thus if the FPC curtailment data is accurate (and it is based on firm curtailment notices provided to the FPC by the interstate pipe lines companies) and if the FEA is wrong about its guesses about demand reductions, demand could be 25% higher than that shown in the base case. Cold weather could, of course, further increase demand.

In order to be conservative, we have taken a 20% demand increase case and established projections for the period November, December, January, February and March. The table below reflects the shortage position each month.

Footnotes at end of article.

RESIDUAL FUEL OIL SUPPLY AND DEMAND FORECAST
(DEMAND INCREASED BY 20 PERCENT)

[Figures in millions of barrels per day]

	1974		1975		
	November	December	January	February	March
Supply	3.2	3.3	3.3	3.3	3.3
Demand	[1] 3.560	[1] 3.847	3.847	3.847	3.847
Shortage	.360	.547	.547	.547	.547
Shortage (in millions of barrels)	10.8	16.96	16.96	15.3	16.96

[1] FEA demand base case plus 20 percent from technical report 74-3.

RESIDUAL FUEL OIL SUPPLY AND DEMAND FORECAST
(DEMAND INCREASED BY 20 PERCENT)

[Figures in millions of barrels per day]

	1974		1975		
	November	December	January	February	March
Open	68.5	57.7	40.74	23.78	8.48
Close	57.7	40.74	23.78	8.48	(8.48)

The table shows that supplies will fall short of demand by 10.8 million barrels in November and 16.96 million barrels in December. These two monthly shortages could be met by withdrawing 27.76 million barrels from inventory. In January, February and March additional large shortages will occur and by the end of January inventories will be down to 23.78 million barrels. Last year at the height of the embargo in March residual fuel inventories dropped to 44.4 million barrels. Because of the amount of residual oil required to keep the system running, the 44-million level did not prevent spot shortages and run-outs. At a level of 23.78-million barrels there would be chaos in the market and a serious emergency for the nation.

Following our projections through February and March the nation would use up all inventories and would have a negative inventory of over 8 million barrels. Industrial plants would be closed down, schools, hospitals, apartment houses, all would be short of fuel.

One can see that FEA's mistaken assumption that the U.S. has unlimited storage capacity is a very serious one. In fact we have relatively limited capacity for residual fuel. Thus, even without a cold winter, even without an Arab oil embargo, even without a coal strike, natural gas curtailments by themselves can cause serious shortages this winter.

This is clearly no time to remove the allocation program on residual fuel. The FEA Technical Report provides no basis for such a move. Even using its gross approach to supply and demand without any differentiation as to sulphur level or pour-point of residual fuel, one can see shortages developing this winter. When one adds a more sophisticated approach and looks at the availability of .3% and .5% sulphur residual fuel and that limited availability of low pour residual fuel, one can expect shortages for certain residual fuel products much sooner than for others.

In short, we think FEA must make a new analysis of the residual fuel situation.

Fourth, the Notice of Proposed Rulemaking fails to analyze the impact on supply of other refined petroleum products. As noted in the Federal Register Notice of July 5 (p. 24670) a prime standard established by the fails to analyze the impact on the market shares of independent marketers of residual

Second, the impact of deallocation on residual fuel oil prices (pp. 10-24). Congress in Section 4(g)(2) of the Allocation Act requires that prior to removing allocations on any product the FEA must find that "exempting such oil or product . . . will not have an adverse impact on the domestic supply of any other oil or refined petroleum product subject to this Act."

Neither the Rulemaking nor the Technical Report 74-3 addresses this question. Yet there is a clear interrelationship between the supply-demand situation for residual fuel and that for distillate fuel (No. 2 home heating oil and diesel fuel). Not only can these fuels be used interchangeably in some furnaces, but distillates are also often used both by refiners and importers as a blending agent to lower the sulphur level of residual fuel.

At the present time in this highly unusual market, residual fuel commands a higher price than distillate fuel. In Boston, for example, the rack price for home heating oil ranges from 25.7 cents per gallon to 29.45 cents per gallon. The average price is about 27.1 cent per gallon.

The price for 1% sulphur level residual fuel at the rack is 30 cents to 31 cents per gallon. This means residual fuel on average costs $1.43 per barrel more than home heating oil. This differential ranges up to $2.27 per barrel. These differentials occur because home heating oil is largely based on price-controlled domestic crude oil which keeps its price low, while residual fuel is based largely on imported supplies which, in turn, reflect high foreign crude oil prices.

These abnormal price relationships are creating strong incentives for industrial, commercial and residential customers to switch from residual fuel to home heating oil. The Mandatory Allocation Program has for the most part prevented such switches because most users are fearful that if they switch this summer they will lose their base volume of residual fuel and have no record of use upon which to base volumes required to be delivered by suppliers in the future. In short, purchasers are still worried about supply security and continue to use residual fuel dispute the price advantage of home heating oil.

Shortage of Home Heating Oil

If controls are removed the FEA will be saying to these residual customers "don't worry about resid." This is, of course, the basic conclusion about supply reached by FEA. At that point there could be a massive switch to home heating oil which could easily upset the delicate supply-demand balance for that product and its sister-product, diesel oil, causing shortages of both products.

The Proposed Rulemaking has completely failed to note these important interrelationships and the negative impact decontrol of residual fuel could have on supply and price of heating oil and diesel fuel.

Home heating oil supplies and prices are of vital concern to millions of homeowners and consumers in many regions of the country. Shortages and higher prices of this product are likely to occur if the FEA exempts residual fuel oil from allocation controls. Despite this fact and despite the clean standards of Section 4(g)(2) of the Allocation Act, the Rulemaking fails to address or analyze the issue.

Based on our own experience in the marketing of a wide variety of petroleum products, we believe that, on careful analysis, FEA will find that the only way to avoid adverse impacts on supplies of other products (i.e. those that remain under control) and on the competitive position of independent marketers, is to remove all controls—price and allocation—on all products at the same time.

Fifth, the Notice of Proposed Rulemaking fuel oil. The FEA has completely ignored this issue, apparently on the grounds that, as stated by the Administrator, "in residual fuel oil, there is no significant independent market sector."

This is simply wrong. FEA's obviously superficial analysis and its failure to deal with this matter in the Rulemaking is a clear violation of Sections 4(a), 4(b)(1)(D) and (F) and 4(g)(2) of the Emergency Petroleum Allocation Act of 1973.

A primary objective of that Act was to insure the competitive viability of independent marketers and to preserve their market shares. In considering the removal of allocation controls, Section 4(g)(2) requires that FEA assess the impact on the achievement of this objective.

As we have pointed out earlier, independent marketers, especially deepwater terminal operators, play a significant role in the East Coast residual fuel oil market.[23] We need not repeat these statistics here.

However, it is clear to us, based on our experience in the marketplace, that the removal of allocation controls will result in an immediate erosion of our market shares and a weakening of our competitive position. This reason is obvious. As discussed in detail above,[24] low-sulphur residual fuel oil is in short supply. If we lose our mandated quantities of this product, we will be forced to purchase it from European refineries at much higher prices—as much as $3 per barrel more. Our customers cannot be expected to continue to buy from us. They will quickly switch to major oil company suppliers with lower prices or to an alternate fuel.[25]

In either case our market shares will be eroded. This is a serious issue; it affects the future and survival of our independent businesses. FEA's ignorance of the independent role in the market and FEA's failure to address this issue explains, in large measure, our strong opposition to the July 5 Notice of Proposed Rulemaking.

Sixth, the Notice of Proposed Rulemaking fails to analyze the availability of low-sulphur residual fuel oil. FEA's failure to measure supply and demand of particular grades of residual fuel oil is discussed in detail earlier in our statement.[26] We need not, therefore, review the issue again.

However, in view of the specific reference to this matter in the letter from Russell Train, Administrator of the Environmental Protection Agency published in the Federal Register Notice (at p. 24673), we believe the matter deserves separate attention. FEA's failure to recognize the basic fact about residual fuel—that the supply picture is different for different grades—is another serious substantive defect of Notice of Proposed Rulemaking.

In conclusion, the Independent Fuel Terminal Operators Association is strongly opposed to the exemption of residual fuel oil from the Mandatory Allocation Regulations.

We believe that FEA's Proposed Rulemaking is fatally defective on both procedural and substantive grounds. The only way that the defects may be properly and legally cured is through republication of the Notice, accompanied by a new analysis and supporting data, with sufficient time for written and oral comment provided to the public.

Our statement today outlines six basic issues which must be analyzed in the new Rulemaking. For the convenience of FEA, we should like to list them and indicate the pages on which they have been discussed in our statement:

First, the removal of price controls simultaneous with the removal of allocation controls (pp. 9-10; Attachment E).

Footnotes at end of article.

Third, the supply and demand of residual fuel oil from July 1974–March 1975 (Comments on Technical Report 74–3, pp. 25–42).

Fourth, the impact on the supply of other petroleum products. (pp. 42–45)

Fifth, the impact of deallocation on the market shares of independent sellers (pp. 45–46).

Sixth, the availability of low sulphur residual fuel oil (pp. 46–47).

Thank you very much.

FOOTNOTES

[1] A list of members and description of the Association is attached. (Attachment A).

[2] New England, New York, New Jersey.

[3] It should also be noted that of the total residual fuel used for space heating, more than 65% is burned in the 8 states of the Northeast.

[4] The Petroleum Administration District covering the East Coast from Maine to Florida.

[5] For a more precise definition, see Section 211.51, Definitions, Part 211, Mandatory Petroleum Allocation Regulations.

[6] Bureau of Mines Mineral Industry Survey, Fuel Oil Sales, 1972.

[7] See Analysis at Attachment B.

[8] The Emergency Petroleum Allocation Act of 1973 (PL 93–159, 15 U.S.C. 7211, *et seq.*), the Federal Energy Administration Act of 1974 (PL 93–275, 15 U.S.C. 761, *et seq.*) and the Administrative Procedure Act (PL 89–554, 5 U.S.C. 551, *et seq.*).

[9] See Memorandum of our legal counsel (Attachment C).

[10] See Attachment D.

[11] See Summary of substantive defects at p. 48, below.

[12] See Memorandum from our legal counsel (Attachment E).

[13] See Attachment F.

[14] We do not contend that the majors are engaged in some sort of conspiracy to eliminate the independent segment of the market. But they do have a powerful interest in consolidating their own hold on the wholesale and retail market both here and abroad. The thrust behind this effort is the certain knowledge that they (the majors) are rapidly losing control over foreign crude oil. Thus in order to retain leverage and be in a position to bargain effectively with the producing countries, the majors want more control of the "down-stream" marketplace. This is understandable. But we independents don't intend to lie down quietly under the steamroller. And we don't think the FEA should push us under the wheels.

[15] See Attachment G.

[16] See Attachment H.

[17] See Attachment I.

[18] See pp. 17–21, above.

[19] For an assessment of the likelihood of an embargo, see Attachment J, recent statements by Mr. Bennett of the U.S. Department of Treasury and Algerian Minister Abdesselam.

[20] See Attachment K.

[21] See Attachment L.

[22] See analysis at pp. 33–36, above.

[23] See pp. 4–5 above, and Attachment B.

[24] See pp. 14–24.

[25] See discussion of switching to distillates, pp. 43–44, above.

[26] See pp. 14–24 and pp. 43–44.

ATTACHMENT A

MEMBERS: INDEPENDENT FUEL TERMINAL OPERATORS ASSOCIATION

Belcher Oil Co., Miami, Fla.

Blue Ridge Fuel Co., New York, N.Y.

Burns Brothers Preferred, Inc., Brooklyn, N.Y.

Cirillo Brothers Terminal, Inc., Bronx, N.Y.

Colonial Oil Industries, Inc., Savannah, Ga.

Deepwater Oil Terminal, Quincy, Mass.

Gibbs Oil Co., Revere, Mass.

Howard Oil Co., Inc., Maspeth, N.Y.

Meenan Oil Co., Inc., New York, N.Y.

Metropolitan Petroleum Corp., New York, N.Y.

Northeast Petroleum Industries, Inc., Chelsea, Mass.

Northville Industries Corp., Melville, N.Y.

Patchogue Oil Terminal Corp., Brooklyn, N.Y.

Seaboard Enterprises, Inc., Boston, Mass.

Southland Oil Co., Savannah, Ga.

C. H. Sprague & Son Co., Boston, Mass.

Webber Tanks, Inc., Bucksport, Maine.

Wyatt, Inc., New Haven, Conn.

The companies listed above own or control terminals capable of receiving ocean-going tankers; none is affiliated with a major oil company. They are qualified to participate in the No. 2 fuel oil program established under Section 2(a)(1) of Presidential Proclamation 3279, as amended, and Section 30 of the Oil Import Regulation, under which 45,000 b/d of home heating oil is presently being imported into District I (the East Coast). The members of the Association are independent marketers of No. 2 fuel oil, No. 6 fuel oil, gasoline and other petroleum products.

Members of the Association distribute 40% of the No. 2 fuel oil consumed in New England, and 25% of the No. 2 fuel oil consumed along the East Coast (District I). They own or control approximately 15 million barrels of No. 2 fuel oil storage.

The independent share of the total East Coast market for No. 2 fuel oil, at the terminal level, is approximately 25%; the remaining 75% is controlled by refiners.

Of the nation's No. 2 fuel oil consumption (for heating purposes), New England accounts for 20%. New York, New Jersey and Pennsylvania account for 31% and the remainder of District I accounts for 10%. Thus 65% of the nation's No. 2 fuel oil is consumed in District I.

ATTACHMENT B

RESIDUAL FUEL OIL MARKET—NORTHEASTERN STATES, 1973: SALES OF NO. 4, 5, 6 FUEL OILS

[In barrels]

	New England	New York and New Jersey
Total sales [1]	173,000,000	268,300,000
Sales by independent deepwater terminal operators [2] (6 companies)	50,500,000	56,900,000
Sales by other independent marketers [3]	1,500,000	13,000,000
Total sales, independents	52,000,000	69,900,000
Percentage of total sold by independents (percent)	30	26
Total nonutility sales	89,200,000	145,400,000
Percentage of nonutility total sold by independents [4] (percent)	58	48

[1] See note 1.
[2] See note 2.
[3] See note 3.
[4] See note 4.

NOTE 1. 1973 demand is assumed equal to 1972 demand. Preliminary data provides an insufficient basis for abandoning the 1972 figures; for example, demand was up during the first part of 1973 and down in the latter part of the year.

NOTE 2. Independent deepwater terminal operators in the two areas:

New England—Cirillo Bros., Deepwater Terminals, Metropolitan Petroleum, Northeast Petroleum, C. H. Sprague, Wyatt, Inc.

New York-New Jersey—Blue Ridge Fuel, Cirillo Bos., Howard Oil, Metropolitan Petroleum, Northville Industries, Patchogue Oil Terminals.

NOTE 3. Data for independents who are not deepwater terminal operators are estimates, since we have no direct access to their sales records.

NOTE 4. The major oil companies and other refiners (New England Petroleum, Amerada Hess) completely dominate the utility market; in addition some utilities purchase residual fuel oil directly from abroad. Therefore, this percentage assumes that independents make no sales to power companies.

ATTACHMENT C

GINSBURG, FELDMAN AND BRESS,
Washington, D.C., July 18, 1974.

PROCEDURAL SAFEGUARDS—RULEMAKING AND PUBLIC HEARINGS

The Federal Energy Administration has proposed a change in its regulations which will exempt residual fuel oil from the mandatory petroleum allocation program. To that end, it has issued a Notice of Proposed Rule Making and Public Hearing. Federal Register, July 5, 1974 (F.R. Doc. 74–15600). This notice sets a July 22, 1974 deadline for written comments, schedules public hearings for July 22 and possibly July 23, 1974, and proposes that deallocation become effective on August 1, 1974. Section 4(g)(2) of the Emergency Petroleum Allocation Act of 1973 (P.L. 93–159, 15 U.S.C. 7211, *et seq.*) states that deallocation can take effect only after it has been before the Congress "at least five days during which the House was in Session and at least five days during which the Senate was in Session," and neither House has taken negative action. July 27 and 28 are Saturday and Sunday, and it is unlikely that Congress will be in Session on those days. Under these circumstances, the proposed rule will become effective August 1, 1974, only if submitted to Congress by the morning of July 25, 1974. Thus, FEA is permitted no more than two and possibly just a single day to consider the oral submissions of interested persons.

At issue is whether the proposed timetable gives FEA adequate opportunity to properly consider the views of all parties and thus complies with the rulemaking requirements which bind the FEA. We believe that the timetable does not so comply.

Section 7(1)(B) of the Federal Energy Administration Act of 1974 (P.L. 93–275, 15 U.S.C. § 761, *et seq.*) provides for publication in the *Federal Register* of any proposed rule, order or regulation and states that a minimum of ten days notice shall be allowed for opportunity to comment. Section 7(1)(C) mandates that whenever any rule, regulation or order likely to have substantial impact on the Nation's economy or large numbers of individuals or businesses, an opportunity shall be provided prior to issuance of such a rule for interested parties to make oral presentations of views, data and argument. To further insure that any rulemaking is made only after consideration of conflicting views and due deliberation of the issues the FEAA, Section 7(1)(1)(A), makes applicable to any rulemaking procedure the provisions of the Administrative Procedure Act (5 U.S.C. 553). This in turn also mandates proper notice and the opportunity of interested parties to be heard and to have their views considered.

These multifaceted procedural safeguards were enacted by Congress to guarantee that the new Federal Energy Administration would approach the complex problems presented by energy allocation with the best in-

formation and only after full consideration of all views. The Conference Report on the FLAA makes this purpose clear:

"The Conferees intend that if the Administrator is in doubt about the applicability of any of the standards provided in this section, he will resolve the doubts in favor of the fullest procedural safeguards." House Rep. No. 93-999, p. 27 (Comm. on Conference).

The Congress may also have been concerned with the failures of FEA's predecessor to deal adequately with the rights of interested parties, for as recently as May 1, 1974 a federal court in California had ruled that the Federal Energy Office failed to comply with the APA rule-making procedures made applicable by the Emergency Petroleum Allocation Act of 1973. *California* v. *Simon*, C. A. No. 74-661 (Central Dist. of Cal. 1974). In that proceeding, the states of California and Louisiana moved to set aside an amendment to FEO regulations which would have terminated state and local agency exemptions from crude oil price regulation. FEO had adopted the amendment without allowing the parties proper opportunity to be heard and without notice of its actions. In what the Court described as an "abrupt departure from established practice" FEO was held to have failed to comply with the basic rule-making provisions of the APA. Its actions were unlawful, since they did not give interested parties the opportunity to be heard and to have their views considered.

The APA standards of which the court speaks in *California* v. *Simon*, have been interpreted to require not only simple notice and a *pro forma* hearing, but *meaningful* consideration of all views. The basic standard was recently restated by the Supreme Court in *N.L.R.B.* v. *Wyman-Gordon Company*, 394 U.S. 759, 764, 89 S. Ct. 1426, 1429 (1969):

"The rule-making provisions of that Act [the APA], . . . , were designed to assure fairness and *mature consideration* of rules of general application." [Emphasis supplied.]

Thus the provisions of the APA are not simple formalities. They are designed to afford the public an opportunity to have its views weighed in the agency decision-making process. The Third Circuit Court of Appeals made this point clear in its decision in *Texaco, Inc.*, v. *FPC*, 412 F. 2d 740 (1969):

"Section 553 was enacted to give the public an opportunity to participate in the rule-making process. It also enables the agency to educate itself before establishing rules and procedures which have a substantial impact on those regulated." 412 F. 2d 740, 744.

Following this standard, federal courts have consistently struck down administrative regulation which failed to live up to the spirit as well as the letter of the APA. *See Wagner Electric Corp.* v. *Volpe*, 466 F. 2d 1013 (3d Cir. 1972); *Pharmaceutical Manufacturers Association* v. *Finch*, 307 F. Supp. 858 (D. Del. 1970); *National Motor Freight Traffic Association* v. *United States*, 268 F. Supp. 90 (D.D.C. 1967), *aff'd. per curiam*, 393 U.S. 18 (1968).

Where, as here, Congress was not satisfied with simply adopting the rule-making provisions of the APA, but instead set forth additional specific procedural guidelines concerning notice and hearings, its concern for the "mature consideration" of the issues is manifest. The proposed timetable fails to comply with such a mandate.

As noted, the timetable may allow FEA only a single day to consider the views, the data and the arguments presented by interested persons. The mechanics of preparing a transcript may alone consume this time and even if this were not the case, a single day is insufficient to give meaningful consideration to what may be diverse views of numerous witnesses. Without minimal attention to oral presentations of the persons who appear, the hearings become mere formalities. Under such circumstances, the FEA will not comply either with the requirement of the APA or those of the FEAA itself.

ATTACHMENT D

Can I begin now?

Sorry we have no facilities to deliver message. TLX numbers can be dialed direct.

I need to know if a number I have is a working number.

What is the number, please?

710-822-0155.

Those are too many numbers for TLX. Those are TWX. Please dial TWX information 4112 for assistance.

ATTACHMENT E

GINSBURG, FELDMAN AND BRESS,
Washington, D.C., July 12, 1974.

EXEMPTION PROCEDURES UNDER SECTIONS 4(a) AND 4(g) OF THE EMERGENCY PETROLEUM ALLOCATION ACT OF 1973

The Federal Energy Administration has proposed to amend 10 CFR Part 211 to exempt residual fuel oil from allocation under the Mandatory Petroleum Allocation Regulations. (Notice of Proposed Rulemaking, 39 Federal Register 24669-74, July 5, 1974). However, as the Notice states, "the FEA does not at the present time propose to exempt residual fuel oil from the mandatory price regulations" (10 CFR Part 212).

FEA's failure to propose simultaneous exemption of residual fuel oil from both allocation and price regulations is a violation of the Emergency Petroleum Allocation Act of 1973 (PL 93-159, 15 U.S.C. 7211, *et seq.*).

Section 4(a) of the Act requires that:

. . . the President shall promulgate *a regulation* providing for the mandatory allocation of crude oil, residual fuel oil, and each refined petroleum product, *in amounts* specified in (or determined in a manner prescribed by) *and at prices* specified in (or determined in a manner prescribed by) such regulation." (Emphasis added)

The Congressional Act thus requires the promulgation of one regulation that specifies both the amount and the price of a product. By use of the conjunction "and" the Congress clearly required that the two elements be joined in a single regulation. The Report of the Committee on Interstate and Foreign Commerce (H. Rept. 93-531, September 29, 1973), in discussing the requirement for price controls referred to "the need of coupling price controls with mandatory allocations."

Section 4(g)(2) of the Act establishes the mechanism for exempting crude oil or any product from the regulation required under Section 4(a). The pertinent portion reads as follows:

If . . . the President finds that application of *the regulation under subsection (a)* to crude oil, residual fuel oil, or a refined petroleum product is not necessary to carry out this Act, that there is no shortage of such oil or product, and that *exempting such oil or product from such regulation* will not have an adverse impact on the supply of any other oil or refined petroleum products subject to this Act, he may prescribe an amendment to the regulation under subsection (a) exempting such oil or product from such regulation for a period of not more than ninety days. (Emphasis added).

The reference in subsection (g) to the regulation under subsection (a) incorporates, of course, the unified, single regulation discussed above. It is clear that Congress intends that the proposal for exemption cover the entire regulation, not just the part relating to amounts or just the part relating to prices.

The Conference Report on the Allocation Act (Rept. 93-628, November 10, 1973) provides an explanation of the procedures to be followed by the President in proposing an exemption. That explanation essentially repeats the text of statute, and adds only one additional point:

An amendment may not exempt more than one oil or product (but seperate amendments may be submitted for different oils or products; and at the expiration of the 90 days that an amendment applies to an oil or product, a new amendment applicable to such oil or product could take effect).

By specifically discussing the separation of each product and not discussing the separation of parts of the regulation, the Conference underscored the clear intent of Sections 4(a) and 4(g)(2).

In addition to violating the specific procedures established by the Congress, any attempt to remove allocation controls and not price controls would recreate the chaotic, anti-competitive conditions that led Congress to enact the Emergency Petroleum Allocation Act of 1973 in the first place.

If only allocation, or quantitative, controls were removed, integrated refiners would, as they did a year ago, retain all lower-priced domestically produced products within their own distribution systems. Such lower-priced product would be taken away from independent marketers and from the regions and consumers served by those independent marketers.

This would place independent marketers at a severe competitive disadvantage; they would either be forced to go without oil and go out of business immediately or be forced to buy higher priced foreign product and go out of business slowly as their customers were taken away by the major oil companies. Obviously such a result would violate the intent of Congress, as expressed in Sections 4(b)(1)(D) and (F) of the Act.

Further, if only allocated controls on any product are removed, certain areas of the country, such as the East Coast, would be forced to pay higher prices for such product because of increased reliance on higher priced imports. Obviously such a result would violate the intent of Congress, as expressed in Section 4(b)(1)(F) of the Act.

ATTACHMENT F

[From the Petroleum Intelligence Weekly, July 15, 1974]

EUROPEAN MARKETERS SEEK WAYS TO BEAT OIL SUPPLY SQUEEZE

Independent marketers in Europe are being forced to consider some new approaches to product supply. They're encountering growing reluctance by the major oil companies to renew long-term agreements, and face high prices and thin volume on spot markets. West German independents, for example, expect to establish a central buying agency by late August or early September. The proposal has been put to member companies of four large German associations of oil independents. At least 250 firms are expected to give the go-ahead in time to establish the joint venture by late summer. It already has the approval of Germany's Economics Minister. The independents sell about 20% of Germany's gasoline and diesel fuel through more than 5,000 outlets, and 30% of its burning oils.

The Germans' cooperative venture would be designed to supplement, not to replace, existing agreements with the majors, which they hope will continue to meet most of their needs. But the independents hope it would also give them access to a share of the output

from the proposed export refinery German companies plan to build in Iran. And they're studying the possibility of direct purchases of crude oil for processing in Germany.

Dutch independents are seeking a more immediate answer to their supply problems by asking for direct government intervention. The Dutch Economics Ministry has already ordered nine oil companies to supply gasoline to one large independent chain at a specified price, and it's studying applications from about 20 other independents asking for similar orders. After a crisis-spawned government allocation program expired, the Avia chain found it was unable to make new supply agreements. The Dutch Government last month ordered nine companies to sell Avia 3-million liters of gasoline weekly at 27.64¢ Dutch per liter, or less than the spot market price. Shell appealed the order to the Council of State but was turned down. Other appeals are pending in Dutch courts. But the government has clearly indicated in the Avia decision that it wants to maintain a viable, independent segment of the market. Independents sell about 15% of the Netherlands' gasoline.

ATTACHMENT G

[From the New York Times, July 20, 1974]

KUWAIT THREAT CITED IN GULF AND BP DEAL

(By Clyde H. Farnsworth)

PARIS, July 19.—European oil analysts said today a threat by Kuwait to cut production was behind the decision by the Gulf Oil Corporation and British Petroleum Company to raise the price they will pay for Kuwait state-owned oil.

They also said that even though it is a principal aim of American international economic policy to force prices down, the companies themselves are not that anxious to see a drop.

They explained that the companies have rebuilt depleted stocks at current high price levels, the analysts explain, and with falling prices they would incur losses.

The process worked in reverse as prices were quadrupling late last year. Company profits rose in part because they were able to sell off at high prices, oil that they had bought earlier at lower prices.

Yesterday the state department in a highly unusual move publicly rebuked Gulf for agreeing to increase its payments for Kuwaiti state-owned oil to $10.95 a barrel in the third quarter of this year.

Gulf's decision undermines the aims of the present Middle East trip of Treasury Secretary William E. Simon, who is trying to convince oil producing states that it is in their interests to expand production, see prices come down some, and invest their oil revenues in long term securities and productive assets in the United States.

London Petroleum consultant Paul Frankel said that if the Gulf-BP pattern is followed in other producing countries it could mean up to another $1 a barrel increase in the price of oil to consumer countries.

Consumer nations are already staggering under the financial burdens of the four-fold increase in oil prices late last year.

Hope for relief had come with the emergence of surplus conditions in the world oil market—reflecting lagging industrial growth, conservation programs, the dissuasion of high prices, a milder than usual winter and production increases in Saudi Arabia, Iran and Iraq.

Resistance to high prices has been especially marked in Japan, one of the biggest importers in the world. With stockpiles bulging, the powerful Japanese trading houses have been refusing to lift the high priced oil they contracted to buy during the supply crisis earlier this year. Fully stocked German refineries have been offering rebates. Oil product prices in the Rotterdam market have been falling sharply reflecting the ample supply conditions.

Official American figures place non-communist world consumption this year at 48 million barrels daily and production at 50 million.

In a recent oil auction the resistance of buyers was indicated by the failure of Kuwait to get the higher prices it was demanding. Kuwait then turned to the two partners of the Kuwait Oil Company—Gulf and BP—and, according to analysts, threatened to keep the oil in the ground if its price was not met.

Gulf officials said the company was vulnerable because Kuwait was its most important source of supply. Kuwait's current production is roughly 2.3 million barrels daily, down from an average 3.1 million in 1973. Gulf and BP combined are entitled to 40 per cent of this oil at a price of around $7.50 a barrel.

Under a participation agreement Kuwait gets 60 per cent of production and the companies had been entitled to buy the oil back at 93 per cent of the posted price or between $10.50 and $10.70 a barrel.

The fresh price contract, at $10.95 or 95 per cent of the posted price, may now become a new benchmark for the state-owned oil that producing countries buy back in the Middle East.

The question of which way oil prices will go will not really be determined until Saudi Arabia disposes of its participation oil. This may not be before a key meeting in Vienna in September of the member states of the Organization of Petroleum Exporting Countries.

While Saudi Arabia has been pressing for lower oil prices in OPEC councils and is expanding its output to keep pressure on price levels, politics may dictate that it get as much for its participation oil as Kuwait.

ATTACHMENT H

[From the Petroleum Intelligence Weekly, July 15, 1974]

NEW OIL "CRISIS" BREWS IN EUROPE OVER PRICE CEILINGS

Oil "crisis" talk is boiling up again in Europe. The issue now is that supplies are threatened, not by any embargo situation, but by "unrealistic" government ceilings on product prices which oil companies urgently maintain don't cover costs of imported crude. The current focus is on France and, once again, Italy too, as it was earlier this year in Belgium. The French oil trade association has given its warnings (PIW—July 8, p. 3). And the chairman of CFP (partly owned by the French Government) also bluntly warned that "further disregard of economic facts and the plain truth about prices" is bound to precipitate a serious crisis. "In price-controlled markets such as France and Italy," he said, "consumption is now paradoxically being subsidized" due to "continuing failure to recognize the magnitude" of sums payable to producing governments.

The operating deficit for oil firms trading in France would total at least 8-billion francs (nearly $1.7-billion) this year, and the shortfall would come to 10-billion including investment and other needs that must be covered, French Shell's president told a parliamentary energy study group. He contended the average price of oil sold in the French market is about 80 francs a ton below what it should be. Continued enforcement of domestic selling prices "so far below realistic levels is incompatible with present crude oil purchase prices," he added.

In Italy, where several international oil companies pulled out earlier, French CFP's Total Italiana is the latest to draw back due to losses. It has suspended imports of crude due to inadequate Italian product prices and threatens to shut down its Mantua and Trieste refineries next month unless there's a price readjustment. Its costs are competitive, both for crude supply and for refining and marketing, but it says it's losing at least 5-billion lire ($7.75-million) on each 1-million metric tons of crude it puts through the Italian market.

ATTACHMENT I

[From the Wall Street Journal, July 17, 1974]

HARD BARGAINING: A LONG COAL STRIKE IS EXPECTED BY MANY; NEGOTIATING DELAYED

(By Walter Mossberg and Bob Arnold)

Robert Muncy, a West Virginia coal miner, and his wife, Sheila, didn't go to Florida on their recent two-week vacation, as they did last year. Instead, they saved $350 by settling for a three-day trip to nearby Roanoke, Va. The reason? "Everyone says there's going to be a strike," Mr. Muncy explains, "a long one."

The Muncys aren't the only coal-mining family seeing the need for a personal "strike fund." In fact, Mr. Muncy's union, the United Mine Workers, which pays no strike benefits, is running a contest called "Prepare for Nov. 12," the day the national coal contract expires. Members with good ideas for saving up money can win $50.

And in the offices of coal-mining companies, the outlook is just as grim. The head of one large concern offers to "bet you money" to back up his conviction that a walkout will come.

Already a climiate of contention is building up. Just this week, the union threatened to call a short national walkout to bring pressure on a single firm, Duke Power Co., that is resisting union organizing at a Kentucky mine. (Yesterday, the UMW backed away, avoiding further talk of a national strike now. See story on page 28).

WHY A STRIKE MIGHT COME

There are a number of other solid reasons why, four months before the deadline, people on both sides expect a strike by the nation's 125,000 organized coal miners—a strike that could cripple the U.S. economy. Among the reasons:

—Both the industry bargaining committee and the union are headed by men who have never before negotiated a coal contract. What's more, both groups are marked by internal divisions.

—Despite public agreement last winter to start bargaining early, talks haven't yet begun, and there isn't a firm target date for starting.

This year's union demands will be the most comprehensive, controversial and costly in the industry's history. Large gains in wages, pensions and other benefits are being sought.

For the first time, rank-and-file miners will have to ratify by a mass vote any deal reached in the talks, so the union negotiators must produce a handsome settlement.

It's true that some government officials and industry executives still hope that the pressures generated by coal's vital place in an energy-short economy will forestall a strike, or at least keep one brief. But such views are in the minority. "The general feeling, which is likely to become a self-fulfiling prophecy, is that a strike is inevitable," says one UMW staff member.

MINERS' RESENTMENT

Adding to the danger of a strike is a strong union resentment toward federal officials. The prime cause is the Cost of Living Council's decision last March to free the coal companies from controls in return for their promise to start negotiations early under the guidance of federal mediators. When the deal

was announced, UMW officials erupted in anger, rejecting the arrangement and complaining they hadn't been informed of it.

UMW President Arnold Miller charged that the mediators had thus "seriously jeopardized any claim to a neutral role" in the talks. The incident just about wiped out any chance they had to nudge the two sides into early bargaining.

Strike worries now run so deep in Washington that government officials are scrambling to set up a coal-supply monitoring system and draw up contingency petroleum allocation plans—as well as praying that a mine shutdown won't happen. "It's tremendously important to our economy and our energy picture that we avoid a coal strike," declares Energy Administrator John Sawhill.

The ripples of concern, of course, spread far beyond Washington. "If Miller can't sign a contract next fall, the economy will go to hell in a handbasket real quick," says Edgar B. Spear, chairman of U.S. Steel Corp. "Do you want an auto? Do you want a job? Do you want to eat? That's what it's all about."

A STRIKE'S IMPACT

Steel-industry experts estimate that a strike even as short as three weeks could close several large producers because record steel demand has shrunk the mills' stocks of metallurgical coal to critically low levels. The auto industry would also be hurt; half of General Motors Corp.'s plants are coal-burning, and, without coal or steel, production of new models could dwindle.

Just as devastating could be the effects on electric power generation. About 54% of all kilowatt-hours of electricity produced by fuel-fired plants is generated by burning coal. And in the Great Lakes industrial belt, coal generators turn out as much as 97% of some states' electric energy.

Coal-burning utilities are estimated to have a comfortable 92-day stockpile on hand now, but the miners' union hindered the stocking-up effort—which could soften tle shock of a strike—by refusing to load previously mined coal into railcars during the industry's annual vacation this month. Some generators needing special grades of coal are down to a 25-day supply.

What's more, the loss of UMW-produced coal, about two-thirds of the nation's total, can't be made up from other sources. Imports aren't available. Western strip-mined coal isn't suitable for use in many of the affected plants, and the government has no power to allocate coal. Oil isn't an adequate substitute because most coal-burning plants can't run on it.

One of the biggest reasons for all the nervousness about the talks is the inexperience of the leaders both of the union and of the coal industry's bargaining arm, the Bituminous Coal Operators' Association.

Arnold Miller, the mine workers' new president, has never negotiated a labor contract, and this bargaining round could prove crucial to his future in the union. Ever since he unseated W. A. (Tony) Boyle in a bitter, court-ordered election 19 months ago, he has had to contend with internal opposition from factions that were pro-Boyle. And, throughout the coal fields, miners are reserving final judgment on him pending his performance in seeking to win a wide range of benefits he accused Mr. Boyle of ignoring.

Associates describe Mr. Miller as tough and strong-willed. Unlike some other union leaders, he is fresh from the workplace; and, though he has assembled a bright young staff and sought guidance from such allies as the United Auto Workers, he is no prisoner of their advice. "I don't think I can exaggerate how independent Arnold can be," one aide says.

Across the bargaining table, the bituminous association will field a team of six bargainers that includes only one veteran of previous coal talks. Nominally heading the group is Walter C. Wallace, a former paper-industry executive who was hired by the coal association only recently. He is considered an able negotiator, but because he is unschooled in the intricacies of coal industry he'll share the negotiating leadership with others.

If Mr. Miller has divisions in his ranks, so does Mr. Wallace. The industry group is split between hard-liners and advocates of compromise with UMW. In addition, producers of different types of coal have somewhat different interests in the talks.

A more immediate problem is getting the two sides together. During the last go-around, in 1971, bargaining began in early July. Last January, Mr. Miller proposed an earlier start this year, and Mr. Wallace accepted. But, despite some limited informal contacts, no real bargaining has yet taken place.

While the union is arguing these points, the employers will press for some of their own. For one thing, they will seek an agreement on a faster and fairer grievance system to help cool local disputes. Such a system, first proposed by Mr. Miller, was agreed on by union and industry negotiators last year but rejected by a weary UMW convention in its closing hours.

The bituminous association will also seek strong guarantees against the wildcat strikes and absenteeism that have historically run rampant in the coal fields. The employers may even propose wage or vacation penalties for skipping work.

No matter what comes out of the talks this year, the contract will, for the first time, have to be submitted to members for ratification. And some labor observers regard rank-and-file miners as an especially rebellious group.

Indeed, Mr. Miller's troops often refuse to follow his lead. Last spring, he failed in three attempts to get his executive board to okay his choice for a new union headquarters site. Just this week, his vote on the board that broke a tie in favor of a UMW position advocating strip-mine environmental controls sparked a protest strike by UMW strip miners.

Some observers figure that Mr. Miller may be tempted to prove his militancy and soften up the members for accepting a pact by calling a brief, one- or two-week strike. A risk in that strategy, however, is detected by one labor expert: "Short, controlled strikes can be called only by strong leaders. If Miller tries it, he could find it lasts longer that he wants."

The proponents of the short-strike or no-strike possibility give several reasons. They argue that the coal companies, now selling at record prices, may prefer a costly labor contract to a costlier strike; some operators are already hinting that they will grant an escalator clause. They also contend steel-industry pressure for a settlement could prove irresistible. And, they note, a six- to eight-week strike would force a cutoff or reduction in pension and medical benefits from the welfare fund and cool the strikers' ardor.

But such arguments are less than convincing. Union staffers talk of obtaining loans to shore up the welfare fund and of a public appeal for aid to strikers. And the steel industry's influence on the employer group is limited because the metallurgical-coal producers—those most subject to steelmakers' pressure—have only a minority voice.

Thoughtful federal officials are wondering what to do if a full-blown strike seems to threaten the "national health and safety." A cooling-off period could be imposed under the Taft-Hartley Act, but some officials fear that the rambunctious miners might defy a no-strike order, especially one issued by a weakened President. If the miners should slash output just by staging wildcat strikes and slowdowns, a source close to both sides laments, "there's no legal remedy—that's the problem."

[From the New York Times, July 10, 1974]

TREASURY OFFICIAL WARNS OIL NATIONS AGAINST ANY NEW PRODUCTION CUTBACK

(By Edwin L. Dale Jr.)

WASHINGTON, July 9.—The new Under Secretary of the Treasury for Monetary Affairs warned the oil-producing countries today that any cutback in production levels in an effort to hold up prices would be "counter-productive."

In his original prepared testimony before a subcommittee of the House Banking Committee, Jack F. Bennett, the Under Secretary, had said that production cutbacks should be regarded by the United States and other oil-importing countries as an "unfriendly act." He told reporters he changed the term because "unfriendly act" has a special meaning in diplomatic terminology.

Mr. Bennett told the subcommittee that even "maintenance of present costs" of oil exports from the producing countries "would threaten severe economic—and, in some cases, political—damage to a large number of consuming countries to an extent which could not help but cause damaging backlash on the producers as well."

While calling the "real economic effects" of higher oil prices serious, Mr. Bennett was much less concerned about the purely financial implications. He said that, "in my judgment, our financial institutions and international monetary arrangements are not likely to be basically threatened" by the financial flows arising out of the explosion of oil prices.

He also called farfetched the idea that the oil developments "post a serious threat of world depression." The depression of the nineteen-thirties, he noted, arose from "too little demand" while the present world problem is one of "far too much monetary demand facing the existing capacity to produce."

In answer to a question, he said he saw no evidence that governments of the industrial countries were overdoing their recent measures to curb demand so as to slow inflation.

QUESTION OF DEPOSITS

Referring to the financial problem posed by the huge earnings of the oil-producing countries, Mr. Bennett noted that "in the early months of this year," these funds were mainly placed in short-term deposits in the Eurocurrency market and that this had "begun to raise questions about capital adequacy in the banks and about their vulnerability to sudden large withdrawals." But he added:

"More recently strong counter-pressures have begun to exert themselves. The banks have begun to reject additional short-term deposits and to insist on terms more in line with the relending opportunities available to them.

"The oil-producing countries themselves, and other depositors, have become more careful to insure they were not risking their funds in institutions with an inadequate capital base. And there has accordingly been increased interest in investing in United States Treasury securities and in other long-term securities, including United States corporate equities."

INVESTMENT OUTLOOK

Mr. Bennett said he could foresee a time "when there will be increased interest both by foreign and by domestic investors in of-

fering new equity for selected private banks." He added that there would be profitable investment opportunities and that "new equity is the answer if banks have more business than they can handle with their existing equity base."

He also emphasized that the financial officials of the oil countries "have shown themselves to be very conservative investment managers" and have not been "shifting their funds about in a volatile manner."

Mr. Bennett referred to a "small number of banks" that have run into difficulties recently because of their foreign-exchange dealings. He said that, "regrettable as their experience was, it probably has had the salutary effect of bringing other institutions to examine their foreign-exchange practices more carefully" and also has led banks to consider changes in "interbank clearing procedures to reduce unintended risk exposure."

[From the Middle East Economic Survey, July 5, 1974]

ALGERIA'S ABDESSELAM SPELLS OUT VIEWS ON OIL PRICES

The full text of the statement of the Algerian Minister of Industry and Energy, Mr. Belaid Abdesselam, on the issues discussed at the recent OPEC meeting in Quito (MEES, 28 June), has now become available. In his statement Mr. Abdesselam stated that other OPEC countries were prepared to counter any attempt by Saudi Arabia to lower prices by increasing production with production cutbacks of their own, and went on to warn that if such a confrontation did arise it could lead to a crisis in world oil markets more serious than that caused by the October war in the Middle East. The following is a summary of the relevant sections of Mr. Abdesselam's statement:

"The determination of the OPEC countries to resist any pressure showed clearly in the two decisions taken by the conference. This is due to the fact that all the member countries are agreed in principle that the value of their oil must be protected, and that if the price is affected by outside factors such as inflation or monetary fluctuations it must be correspondingly corrected.

"In any case, Saudi Arabia—whose position on the question is well known—presented arguments at the conference which appeared all the less convincing to the other delegations for arriving at conclusions which flagrantly contradict market conditions and the inflationary situation in the world. This is why, despite its considerable potential for production—it is actually the largest exporter in the world—Saudi Arabia found itself isolated. Almost all the other delegations defended the argument that the price set at the beginning of the year is not only reasonable but has already been overtaken by the rate of inflation which has grown continuously since last January.

". . . There is another way of supporting prices, which consists of adjusting supply to demand or of restraining production to match consumption. This idea, which was proposed by Algeria at the last meeting in Vienna, was the subject of a wide-ranging exchange of views at Quito. It can be said that it made some progress, and that it now appears to be accepted by all the countries. Even Saudi Arabia, although reserving its position on this issue and declaring its intention to increase its production in the short term, nonetheless did not exclude the idea of associating itself with such an action in the future.

"Countries such as Iran, Kuwait and Algeria declared themselves ready as of now to put into effect a reduction in their output if this was necessary to maintain prices. The representatives of other countries such as Nigeria, Qatar and the UAE, while stating that they had no mandate to do so immediately, indicated that if OPEC decided on such measures their governments would be ready to apply them.

"These countries also clearly indicated to the Saudi representative that if his country increased its production to put pressure on prices they would not hesitate to reduce their output by the amount of the extra quantities placed on the market.

"This is also the place to reaffirm that, thanks to the determination of the OPEC countries, blackmail and pressure on prices via production will not succeed. Those who hope to influence prices by counting on a steep rise in Saudi production are badly mistaken.

". . . With regard to the level of prices itself, which has already caused much ink to flow, the exporting countries consider that the price resulting from last December's decision, which they are determined to protect against any erosion or pressure, is reasonable. . . . This price increase is not, as some people claim, the result of measures of a political nature taken in special circumstances by the Arab states at the time of the Middle East war. These events at the most played the role of a catalyst in taking a decision which was already well prepared and well justified on the economic level.

". . . As for those who continue to wonder whether such a price can be supported by the world economy, one can only say that the price set by the exporting countries is not excessive, since the consuming economies are continuing to function normally in their essential aspects.

". . . Some people hope to be able to play on differences within OPEC to create pressure on prices. But those who have pinned great hopes on increases in Saudi production to pull down prices must be disillusioned by the determination of almost all the producing countries which have decided to reduce their own production sufficiently to maintain the balance between supply and demand.

"It is a fact that those who persist in trying to use the production of OPEC members to break the solidarity which up till now has been the basis of the success achieved by the member countries as a whole in the field of prices, are in fact playing a dangerous game which may very well turn against them.

"From the moment that all the other member countries decided to protect the level of prices against the effects of an intentionally created over-production by means of a voluntary substantial and coordinated reduction of their own production, there arises a serious risk of creating severe tension in the oil market. Supposing even that Saudi officials and the Saudi people accept without being given anything in return that their considerable reserves should be used as a trump card in a plan aimed at the exploitation of other peoples—and this is very doubtful and very risky—the situation could rapidly develop into a crisis whose scale and consequence might eclipse the crisis which resulted from the October war in the Middle East since, in addition to almost all the Arab states outside Saudi Arabia, the other OPEC members would join these oil cutback measures. In fact the oil measures which were taken last October by the Arab countries for political reasons can very easily be taken again, but this time for economic and commercial reasons and by almost all the OPEC countries.

"That is to say that the repercussions of the supply crisis which would arise could be more important and more serious than any experienced so far. And even if the producing countries themselves were not spared from the backlash of such a crisis, it would certainly be the industrialized consuming countries which would be the first to suffer."

EXCERPTS FROM SHELL OIL REPORT ON ENERGY OUTLOOK

Whether the U.S. has sufficient supplies of petroleum for the rest of this year is beyond the control of this country's government or oil industry. The balancing factor is imports and their availability depends on the actions of other producing and consuming countries.

The energy situation in the near future also depends to a larger extent on what consumers do—not only in the United States but around the world.

Traditional definitions of demand—particularly "normal demand" or "unconstrained demand"—are invalid in a situation in which supplies are artifically limited. It appears that worldwide consumption is currently somewhat below pre-embargo levels due to a combination of factors including conservation measures, supply limitations, higher prices and mild weather.

It is . . . uncertain to what extent conservation efforts are continuing since the announcement of the end of the embargo; there are conflicting reports.

The question of prices must also be considered in any assessment of demand. It appears that the higher prices imposed by OPEC countries have resulted in reductions in consumption. Although some Mideast officials have admitted that the current crude postings are probably too high, most informed sources are skeptical about any impending price reduction.

Another consideration is how long it will take consumers to get used to paying higher prices (as they did during the beef shortage or when cigarette prices went up) before demand begins increasing again.

Currently, supply and demand seem to be approaching a balance, but no one as yet knows whether this is temporary or not. We will have to wait and see, to give the world economy time to stabilize. One thing is sure: We will have to learn to live with uncertainty.

If we come to the end of the year without a crisis, it should not be taken as indicating the end of this nation's energy problems. They are not ending; they are just beginning and will be years in resolution.

ATTACHMENT L

[From the New York Times, July 11, 1974]

LIMITED COAL USE IS SEEN FOR UTILITIES

(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 sulfur 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 per cent 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 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 knockdown, 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."

[From the Oil Daily, July 24, 1974]

NEW ENGLAND DOMINATES HEARING

(By Tony LoProto)

WASHINGTON.—The Federal Energy Administration asked for a public hearing and they sure got one.

The case of residual fuel oil—the first of the petroleum products to be "de-allocated"—has raised once again all the old arguments for and against government control with partisans both pro and con using the catch phrase of whatever side they are on: economic chaos vs. consumer cost; government interference vs. the free market and controls vs. de-controls.

Yesterday, the second day of hearings into the question of deallocation of resid brought forth testimony from Rep. Michael Harrington, (D-Mass.), E. W. Smith of the Farmers Union, Robert Greenes of the National Oil Jobbers, John Buckley of Northeast Petroleum Co., Robert W. Mitchell of the Governor's Council on Energy for New Hampshire, and Marcy Benatock of the New York City Clean Air Campaign.

As with Monday's session, Tuesday's hearing was dominated by what has come to be called the New England point of view. (NEPOV).

Briefly stated, the NEPOV considers residual fuel and the continued allocation of residual fuels as vital because:

The six state New England region is more dependent on residual oil than any other section of the country. "Nearly 500,000 b/d or 45% of total oil consumed in the region is resid," according to Rep. Silvio Conte (R-Mass.). The NEPOV also notes that New England alone consumes 25% of the nations's residual oil.

Seventy percent of the area's electricity is generated by residual. 50% of the residual oil consumed in New England—about 250,000 b/d—is used to power industries and to heat schools, apartment houses and factories.

Residual fuel costs to industry have increased by $220 million.

65% of New England's fuel oil is supplied by independent terminal operators.

The New England Fuel Institute, presenting the case for NEPOV admirably, pointed out at the hearings that the New England heating oil market is "the most homogenous and the most concentrated in the world."

"The proposed rulemaking that lifts controls on the allocation of residual oil, but retains price control on the product, is contradictory and ill-conceived," the NEPI said.

Putting its case and the NEPOV more strongly NEFI said: "The proposed rulemaking is irrational and suspect. The whole effort seems to be an exercise to test what public and Congressional reactions will be rather than a serious move based on substantive analysis."

But the most massive (and massively documented) testimony came from John G. Buckley, speaking for the Independent Fuel Terminal Operators Association.

In a 65 page statement, Buckley reviewed much of the history of energy shortages in the New England area. He stated firmly, "If controls are removed the FEA will be saying to New England residual customers 'Don't worry about resid.' "

Explained Buckley, "This is, of course, the basic conclusion about supply reached by FEA."

"The proposed rulemaking," said Buckley has completely failed to note important interrelationships and the negative impact that decontrol of residual fuel oil could have on supply and price of heating oil and diesel fuel."

Concluding, Buckley said, "FEA's obviously superficial analysis and its failure to deal with the impact on a market share of independent marketers is a clear violation of Sec. 4 of the Emergency Petroleum Allocation Act of 1973."

Testifying on behalf of New Hampshire, Robert W. Mitchell, executive vice chairman of the Governor's Council on Energy said, "There still exists, and will continue to exist, a shortage of residual fuel oil through the normal contractual supply channels, notwithstanding temporary 'spot surpluses' of residual fuel oil. New Hampshire feels that the removal of allocation regulations without removal of price regulations would cause a serious imbalance in normal and historical supply sources." The governor's representative said, "We do not believe it's in the best interests of the New Hampshire consumers to exempt residual fuel oil at this time. We feel strongly that a continuation of the allocation system will serve the best interests of all sectors of our industrial economy as well as the homeowner."

[From the Oil Daily, July 24, 1974]

FUEL COSTS UP 200–300 PERCENT FOR NORTHEAST, FEA TOLD

WASHINGTON.—Fuel oil controls should be tightened rather than dropped, Albert A. Walsh, president of the National Realty Committee and former New York City Housing Authority chairman, told an FEA hearing here.

Walsh was testifying at a hearing on proposed deregulation of residual fuel oil. Removal of allocations and price controls, he said, "would be nothing short of catastrophe for consumers," most notedly in the Northeast.

Fuel costs rocketed 200 to 300% in the past year alone in that area, he said.

"Since fuel and utilities represent one-quarter of overall operating expenses, the magnitude of the problem is evident," he noted.

Economic disaster to owners and operators or residential properties looms as a result of escalating fuel prices, he warned. He said many previously profitable properties are now producing "less than a fair return" or are operating at a loss, and that stepped-up abandonments of marginal properties seem destined for the near future.

He foresaw rising fuel costs, forcing federal and state governments into subsidizing new housing for tenants now occupying privately-owned buildings.

Walsh urged the FEA to forget decontrol considerations and "begin to perform its statutory mandate to protect American consumers from exorbitant fuel oil prices." He said the FEA cannot assume that adequate oil supplies permit the agency to "abdicate its responsibilities."

Walsh assailed as "casual disregard" the

FEA failure to predict the impact of deallocation on fuel prices.

He said the government should allow oil price increases consistent with actual costs and that the oil companies "should share some of the burden caused by the current situation. The FEA cannot abdicate its responsibilities at a time when market forces are out of control."

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Is there further morning business? If not, morning business is concluded.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Heiting, one of his secretaries.

PRESIDENTIAL APPROVALS

A message from the President of the United States stated that he had approved and signed the following acts:

On July 23, 1974:

S. 2830. An act to amend the Public Health Service Act to provide for greater and more effective efforts in research and public education with regard to diabetes mellitus; and

S. 2893. An act to amend the Public Health Service Act to improve the national cancer program and to authorize appropriations for such program for the next three fiscal years.

On July 25, 1974:

S. 724. An act for the relief of Marcos Rojos Rodriguez;

S. 1803. An act to authorize the waiver of claims of the United States arising out of erroneous payments of pay and allowances to certain officers and employees of the legislative branch;

S. 3311. An act to provide for the use of simplified procedures in the procurement of property and services by the Government where the amount involved does not exceed $10,000; and

S. 3679. An act to provide temporary emergency livestock financing through the establishment of a guaranteed loan program.

On July 26, 1974:

S. 3203. An act to amend the National Labor Relations Act to extend its coverage and protection to employees of nonprofit hospitals, and for other purposes.

EXECUTIVE MESSAGES REFERRED

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

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

MILITARY PROCUREMENT APPROPRIATIONS AUTHORIZATION, 1975

The ACTING PRESIDENT pro tempore (Mr. ALLEN). At this time, in accordance with the previous order, the Senate will proceed to the consideration of the conference report on H.R. 14592, the military procurement appropriations authorization.

The report will be stated by title.

The second assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 14592) to authorize appropriations during the fiscal year 1975 for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons, and research, development, test and evaluation for the Armed Forces, and to prescribe the authorized personnel strength for each active duty component and of the Selected Reserve of each Reserve component of the Armed Forces and of civilian personnel of the Department of Defense, and to authorize the military training student loads, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all the conferees.

The ACTING PRESIDENT pro tempore. Is there objection to the consideration of the conference report?

There being no objection, the Senate proceeded to consider the report.

(The conference report is printed in the House proceedings of the CONGRESSIONAL RECORD of July 24, 1974, at pp. 24933–24947.)

Mr. STENNIS. Mr. President, I am glad to yield to the Senator from Montana.

Mr. MANSFIELD. Mr. President, I have been requested by several Senators who would like to have a vote on the pending business to notify the chairman and the ranking minority member to that effect. I am now doing so.

Mr. President, I ask unanimous consent that the vote occur on the conference report at the hour of 12:15 p.m.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. MANSFIELD. Mr. President, I ask unanimous consent that at the appropriate time it be in order to ask for the yeas and nays on the conference report.

The ACTING PRESIDENT pro tempore. Without objection, the time for the vote on the conference report is to be at 12:15 p.m. and the Senator will be accorded permission to ask for the yeas and nays at the appropriate time.

The Chair recognizes the distinguished Senator from Mississippi, the chairman of the Committee on Armed Services.

Mr. STENNIS. I thank the Chair.

Mr. President, for the information of the Senate and for the permanent RECORD I have an evaluation of the conference report that purports to briefly summarize the major matters that were disposed of, how they are disposed of, and why they were disposed of as they were in the entire bill. I also have certain supporting data which I shall ask to have printed in the RECORD at the appropriate time, but not now.

Mr. President, as a part of our effort to make all of the available facts known ahead of the actual discussion of the conference report today, I have already issued a detailed press release July 23d, along with a statement of this subject, which appears in the CONGRESSIONAL RECORD of July 25. Moreover the House Conference report appears in the CONGRESSIONAL RECORD of July 24.

This bill is one of the more significant legislative items which the Senate annually considers each year and I will discuss both the broader aspects as well as the details and the results of the conference.

I think all Members of Congress, the departments, the services, and the public are entitled to a full explanation of these matters.

GENERAL OBSERVATIONS

Mr. President, prior to discussing specific funding and language items I would like to make a few general observations on this entire legislation.

THOROUGHNESS OF THE CONFERENCE

Mr. President, this was a most thorough and hard fought conference in the best legislative sense. Every issue was thoroughly discussed with both sides proceeding in good faith to make the best possible arguments on behalf of their respective positions. I would note that the conference extended over a period of about 1 month, from June 20 to July 23, during which there were 15 conference sessions on 10 meeting days.

At this point I would like to thank all of the Senate conferees for the part they played both in attending all of the many sessions and in the overall discussion. Especially, I extend my thanks to the ranking minority member, Senator THURMOND, for his assistance to me in this entire bill.

All of the conferees had been on these committees for several years and were familiar with the subject matters. We really combed the bill from beginning to end, including such amendments as the House added, as the Senate added, and as our Senate Armed Services Committee added, with the fullest and utmost discussion and consideration given to all of them—minor, medium, and major amendments.

There was a lot of new testimony, in a way, given not for the record but by way of argument. These matters were fully passed on. I think some of them were brought up some 7, 8, 9, or 10 different times.

RESULTS OF LANGUAGE DIFFERENCES

Mr. President, many of the Senators are particularly interested in the various language provisions which were the subject of the conference. I will outline the overall results. In the House version there were only five language differences of any consequence which were not in the Senate version of the bill.

In the Senate version of the bill there were a total of 28 language provisions which were not contained in the House version. Of these 28, 18 were Senate floor amendments and 10 were provisions adopted and recommended by the Committee on Armed Services. The Senate also passed three minor technical amendments which are not included in these numbers.

The resolution of these language differences in numerical terms are as follows.

Of the 28 Senate provisions, 15 were finally adopted by the conferees although some were modified. Of this 15, 6 of the Senate floor language amendments were accepted either in whole or in modi-

fied forms, as well as the 10 committee changes in the same manner.

Mr. President, of the 18 Senate floor amendments a total of 12 were not adopted. There were 7 of this 12 that the House insisted were not germane under the House rules; that leaves 5 of the 12 that the House refused to accept strictly on their merits. I do not want to imply that of all of the seven that were dropped that the House would have necessarily accepted them on their merits even if they had been germane. We just do not know at this point.

With respect to the five House language differences, all of these were finally adopted in conference although some were modified and some related to amendments passed in the Senate.

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

Mr. STENNIS. May I take a few more minutes to finish my overall statement? Will that be acceptable to the Senator from Indiana?

Mr. HARTKE. That is fine.

Mr. STENNIS. Mr. President, I would now like to turn to the germaneness rule in the House. All of the Members of the Senate who have been conferees with the House on other bills have encountered this rule and are generally familiar with the problem. This issue, however, relates not only to the military procurement legislation but is a matter confronting Senate legislative process as a whole.

It is accurate to say that the House has become much more stringent and consistent with respect to their germaneness rule.

As chariman of the Senate conferees I was insistent that this issue be clarified in writing to the extent possible.

Mr. HÉBERT was fully cooperative and understanding on this matter and he wrote a letter which was inserted in the RECORD last Thursday, appearing on page 25129 in substance, he advised in order for a Senate amendment to be germane it must be directly related to the fundamental purpose of the bill. There is no way prior to consideration of the conference report that a fundamental parliamentary opinion can be obtained as to whether a particular amendment is germane; however, in every case, the House conferees conferred informally and at length with the House Parliamentarian and received an informal opinion, and this was the process followed on this legislation.

Mr. HÉBERT's letter also notes that the House conferees will continue this present policy in the future.

There is another factor, Mr. President, I would emphasize. In years past the House conferees have requested the Rules Committee to grant a rule waiving points of order in order for certain Senate-passed amendments to be considered on the House floor without being subject to the point of order process. The House Rules Committee, so I am advised, has been increasingly reluctant to grant waivers on points of order and the House Armed Services Committee conferees have been increasingly reluctant to request such waivers. In their opinion, this frustrates procedures in the House. It is their present policy that they will not request a rule waiving points of order.

I recite this circumstance, Mr. President, for the Senate to fully understand this entire situation on the germaneness question. I would note, Mr. President, that the fundamental purpose of this bill is to authorize annual appropriations with respect to military hardware. R. & D. and civilian and military personnel for the Department of Defense, together with military assistance for South Vietnam.

So far as could be, under the rules of the House, all amendments from the Senate floor were fully considered in conference. I am ready, and other members of the committee are ready, to fully debate any point with anyone who is the author of a Senate amendment which did not get adopted. We are ready to give the full facts as to what happened in conference. I think the Senate is entitled to that. We are prepared to give an accounting.

We had these conferences over a period of 33 or 34 days, 15 conferences in all, spread over 10 days. That is, we had some morning and afternoon conferences. On some days, we just met in the forenoon or in the afternoon.

The matter was given a fine-toothcomb treatment. I think it is as good a conference as I have ever known in the Senate. I was not chairman of the conference, so I am more free to talk about it than I otherwise would be.

We had splendid attendance by our Senate conferees who were prepared on their subject matters, and, of course, the House did, too.

Mr. President, we come back now with this conference report. When you pass on it, the Senate is not going to be passing on any major or new matter or new position, except one that I will emphasize later. All these matters were adjusted within the range and within the field of positions having already been taken by the Senate and in the neighborhood of what the Senate had passed on.

FUNDING RESULTS

Mr. President, as the Senate may recall, the total authorization for military procurement and R. & D. as passed by the Senate was $21.8 billion. The total amount voted by the House was $22.6 billion. The conference report recommends a total authorization of $22.159 billion which is $340.1 million more than the Senate bill but is $483.6 million less than the amount voted by the House. Moreover, Mr. President, the final conference figure was $935 million below the Department of Defense budget request.

PROCUREMENT PORTION OF BILL

With respect to the procurement portion of the bill the conference agreement provides a total of $13.258 billion which is $392 million above the Senate figure and $383 million below the House. The final amount approved is $547 million below the $13.8 billion budget request.

Mr. President, for the purpose of the foregoing computation I have included the sum of $264 million which is for the procurement of items for South Vietnam. I will now turn to some of the major procurement issues resolved by the conferees.

MAJOR PROCUREMENT ISSUES

SHIPBUILDING AND CONVERSION

Mr. President, the Senate had approved a total shipbuilding and conversion program of $2.856 billion, as compared to a House authorization of $3.539 billion for this purpose. The conferees approved a final sum of $3.156 billion for Navy shipbuilding and conversion.

With respect to the specific items the conferees restored, first, a nuclear attack submarine which had been deleted by the Senate, $167.5 million, making a total number of three; second, the destroyer tender, $116.7 million, dropped by the Senate, and, third, restored $16 million of the total Senate reduction of $142.9 million for the sea-control ship.

The conferees agreed to the Senate reduction of the proposed patrol frigate program from seven to three, $250.5 million, and the reduction in the sea-control ship of $126.9 million.

AWACS

The conferees agreed on the sums of $405.1 million for the fiscal year 1975 AWACS program—airborne warning and control system—which passed the Senate in the amount of $549.8 million, and the House in the amount of $292.1 million. The final figure will represent the approval of six airplanes with long-lead funds for another six, with a one-a-month delivery schedule which will protect the present contract.

I have a special report on AWACS—how we settled on that particular plane.

A–10—A–7D ISSUE

Mr. President, the Senate in effect receded to the House position on the A–10/A–7 matter in view of the fact that the Department of Defense declared the A–10 to be the winner in the flyoff competition. The Senate bill had contained certain alternative language which tied the availability of funds to the winner of this competition, whereas the House version did not contain this restriction. The report now approves a total of $274.1 million for the A–10 for procurement and R. & D., together with $104.9 million for 24 A–7D's for the Air National Guard. There was a flyoff between the A–10 and A–7. While we were in conference, the flyoff evaluation was completed, and the Air Force made a choice in favor of the A–10, and we approved that.

INCREASED STRATEGIC AIRLIFT CAPABILITY

The conferees approved a Senate item not in the House bill of $31 million for fiscal year 1975 for the so-called stretch program for the C–141 aircraft, to increase its cargo capacity.

The conferees also dropped the item of $25 million, none of which was included in the Senate version, which would have begun a program to modify the civilian jumbo jetliners to accommodate military cargo in an emergency. This item represented the initial start of a program for the civil reserve air fleet which will cost in excess of a billion dollars and which contained many problems yet un-

solved. The Senate conferees were unanimously opposed to that provision and did not yield on it. So that part of the program is not in this bill at all.

The remaining items are discussed fully in the conference report and also are covered in a chart which I will insert in the RECORD at the end of my remarks.

RESEARCH AND DEVELOPMENT

Mr. President, for research, development, test, and evaluation, the conference agreement authorizes $8.937 billion. The Senate has voted $8.952 billion, and the House authorized $9 billion.

As in procurement, some R. & D. programs were not in dispute in the conference, and these included the strategic initiatives, sometimes described as counterforce, which are extensively discussed during Senate debate on the bill.

B–1

Perhaps the major R. & D. item in disagreement was the Air Force B–1 bomber. The Senate bill reduced a $499 million request for development of the B–1 by $44 million, to $455 million, limiting the approved program for fiscal year 1975 to three prototype aircraft to permit flight testing and technical progress before further congressional action. The House approved the full request which included starting a fourth prototype aircraft in fiscal year 1975.

The conferees voted $455 million, with language which would defer the fourth aircraft until after the first has been successfully flight-tested. At that time reprograming within available B–1 funds could be requested to begin the fourth prototype.

SMALL SUBMARINE

Also in dispute was the Navy's request for $16 million to begin development of a smaller ballistic missile submarine to complement the project Trident force. The Senate bill deleted this authorization on grounds that approval this year would be premature. The House approved the full authorization.

The conferees deleted the $16 million in authorizations for development of this new submarine.

ABM—SITE DEFENSE

Another R. & D. item in disagreement was the follow-on ABM system, site defense. The Senate had reduced to $110 million the Defense Department's $160 million request and the House voted $150 million for site defense.

The conferees voted $123 million in authorizations for site defense technology.

REMAINING ITEMS

Disposition of other R. & D. items is reflected in this chart, and I ask unanimous consent that it be printed in the RECORD at the conclusion of my remarks.

MAJOR MANPOWER ISSUES IN CONFERENCE

Mr. President, I think there are a number of highly significant manpower issues in this bill and on the whole I think the Senate position fared very well. I will cover each of these separately.

TROOP CONVERSION FOR U.S. NATO FORCES

Mr. President, for the first time since NATO was funded, the House and Senate have agreed on the composition of the NATO troops stationed in Europe. The substance of the Senate-passed NATO conversion amendment adopted in committee was written in conference.

As finally approved, the conference report contains language which requires a reduction of 18,000 from U.S. noncombatant units in Europe within 2 years—June 30, 1976—and of this number 6,000 must be eliminated by June 30, 1975. This language is mandatory. At the same time there is language which permits but not requires the Secretary of Defense to increase the number of combat men by this same number within this same period of time. The language applies to all services with the Secretary of Defense having the discretion to apportion the numbers within the various military departments. As the Senate may recall, the version passed by the Senate applied only to the Army and required a 2-percent reduction, about 23,000, over a 2-year period with one-half of this number to be completed by June 30, 1975. The House version contained no language whatever on this subject matter. It is fair to say that the Senate obtained approval of this provision only after long and strenuous debate with the House conferees who were initially thoroughly opposed to this provision on its merits.

Certainly, this does not weaken the combat strength. It was not intended to and does not weaken the combat strength of U.S. forces in Western Europe.

REDUCTION IN CIVILIAN MANPOWER AUTHORIZATION

Mr. President, this is the first year that the Congress has authorized the end strength for civilians in the Department of Defense. The Senate had voted a cut of 44,600, 4 percent, as compared to a House cut of 15,000 for June 30, 1975. The conferees recommended a cut of 32,327 with the Secretary apportioning this reduction among the military departments. This represents a 3-percent cut from the requested end strength of 1,027,327. This cut represents a minimum savings of $400 million on an annual basis.

Mr. President, of the 32,000 cut, about one-half of this amount represents additional jobs which the Department wanted to add to the payrolls. This fact, combined with an annual turnover of 215,000 civilian personnel means that that there should be no layoffs of people now employed as a result of this reduction.

Mr. President, in our conference discussions we finally narrowed down to two items: The active duty services and the item I have already mentioned. modifications for the civilian reserve fleet—CRAF—a program that would cost, in total, an amount estimated at more than $1 billion. The Senate conferees did not feel that we could launch into that CRAF program, especially in view of the lack of adequate hearings and the unsettled questions that were involved. We had been to the end of the road over those two items.

The House did make a proposal to yield somewhat on the manpower matter—but not appreciably—if we would include the—CRAF—cargo program to which I have just referred. We had a meeting on that, the conferees of the Senate, and talked it over, and we decided that it would be better to yield on the manpower matter and stand firm on the civilian reserve air fleet, and that is the position we took. The House conferees agreed to it, and that is the way the matter was settled.

I think, too, that this conference report deals in more than one instance with a policy that the military has been criticized for, and some of that criticism came from our committee—the policy of moving headlong, even if the weapon in question might be in trouble of some kind. This policy has been slowed down somewhat by this conference report.

As I have said, Mr. President, on the authorization for the active military strength after long and hard argument, the Senate reluctantly receded to the House on the higher figures that body had approved.

This is an item that the Senate conferees yielded on and, frankly, in a substantial way. The House conferees had been adamant and unyielding as to the manpower levels for the services all the way through, and that is a question upon which there are differences of opinion.

Mr. President, I am of the personal opinion that substantial reductions can be made especially in the many headquarters throughout the world in the Armed Forces from the 1 million people associated with the noncombat support. I, therefore, think that the 49,000 cut mandated by the Senate was a sound position. I can assure the Senate, therefore, that the Armed Services Committee continues to examine all aspects of manpower in order to achieve further economies.

Mr. President, I cannot emphasize too strongly the fact that the Reserve and National Guards are indispensable under the Volunteer Force concept. There must be a willingness to use these Reserves and they must be ready in every way. I shall not favor another Selective Service Act until use is made of the Reserves and National Guard.

With respect to Air Force active duty end strength manpower I would expect that the Secretary of Defense would examine most seriously the mandate in the bill regarding the use of Reserve components.

This is a statutory mandate which would apply in lieu of expansion of the Active Air Force manpower capability for this purpose.

MILITARY ASSISTANCE FOR SOUTH VIETNAM

During the long years of the Indochina war this annual authorization bill, under a program called military assistance service funded—MASF—permitted the Defense Department to provide assistance from its stocks to allies in Southeast Asia.

Now this program has narrowed down to military aid for South Vietnam. This is the last year it will be in this bill, and this military aid will be provided under the regular military assistance program—MAP—next year, for fiscal 1976.

The Defense Department initially re-

quested $1.6 billion for MASF in the 1975 fiscal year. The House voted $1.126 billion, the same total approved by Congress, for the current year, and the Senate reduced the total to $900 million.

The conferees agreed on $1 billion, and the conferees also approved Senate language which sets up a separate appropriation for these funds. This new accounting procedure, is reflected in the detailed authorizations included in the conference report.

OTHER PROVISIONS

I referred, at the outset, to the number of Senate amendments accepted by the conference. On page 25130 of the RECORD of July 25 there is printed a list of amendments which were not accepted in conference with a short notation as to why those proposals were dropped.

I will not list all the Senate amendments which were adopted, but here is a summary of major Senate amendments which were approved, in whole or in part;

A redrafted version of a Senate amendment designed to prohibit research with poison gases and other chemicals on dogs for weapons research. Language in the report states that the provision is not to inhibit research aimed at preserving human life.

A Senate amendment barring, for fiscal 1975, tests of Minuteman missiles from operational silos in the Northwest United States.

A new provision, combining amendments separately approved by the House and Senate, which will require 91 flying units in the Air National Guard in fiscal year 1975 and states the policy of Congress that the components of the reserve, rather than increases in active duty forces, should be tapped to increase the ratio of strategic airlift crews to airlift planes.

A modified Senate amendment requiring statutory authorization for selling or otherwise disposing of naval vessels, larger than 2,000 tons or less than 20 years old, to another nation. Other vessel disposals would require 30 days notice to the Congressional Armed Services Committees.

A modified Senate amendment designed to assure careful review of certain exports of goods, technology, and industrial techniques to Warsaw Pact nations and such other nations as the Secretary of Defense may determine. The conference provision would require the Secretary of Defense to make recommendations to the President on licensing such exports. If the President overrules a negative recommendation by the Secretary, Congress could deny the export by passing a concurrent resolution within 60 days.

A modified Senate amendment requiring the Navy to negotiate with Puerto Rican authorities for an alternate site for weapons training now conducted on the island of Culebra. The report will note that, while the bill was in conference, the Department announced that weapons training would end by July 1, 1975, on Culebra and by December 31, 1975, on the adjoining keys.

On some money items, Mr. President, we did not try to strike them all out, but we slowed them down somewhat. Personally, I hope that time will overcome certain problems, such as those with the sea control ship. They were having some unsolved problems for which they needed more time.

I do not know whether we are going to have another debate on the beagle hound amendment. That received a great deal of attention on the floor of the Senate and received even more attention, in proportion, in the conference. We finally reached an agreement of some kind partly covering that situation. Certainly no one was indifferent to the beagles.

We had a good discussion in the conference about the ROTC. We had an amendment from the floor on that matter. We were not able to get an agreement in conference about that. We will have a further explanation of those matters if they come up.

I want to add this personal word. Since this conference ended, I have made what was to me a very valuable trip. I went to Fort Jackson, in South Carolina, which is a typical military installation. I can say to the Senate that I was well impressed with it. There I spent several hours behind closed doors, talking first with a total of 100 enlistees who had been in the service from 1 week to 4 or 5 weeks, young men and young women. Then I conferred, in like manner, with 20 experienced Army sergeants; then with 20 junior officers—second lieutenants, first lieutenants, and captains. I was trying to get the feel of the volunteer forces, because the Army and the other services are making a major effort to try to get recruits and to get quality people.

I commend them for their efforts. I think it is unproven yet just how the matter is going to work out. I am going to go back to other places and visit with some of their men who have been in at last a year, not only in the Army, but in the other services as well.

I believe the most enthusiastic group I met was a group of 20 young WACS that had just been in a few weeks; they had very strong motivations.

I mention those things in passing relating to our manpower problem and our Volunteer Forces problem.

I would be glad now, Mr. President, to try to answer questions, the Senator from Indiana has asked one and I appreciate his letting me finish my statement.

I yield the floor and will be glad to hear from any members of our committee.

We are having an important meeting of our committee this morning that had already been set before we knew this bill was coming up, or there would have been more here today, they all agreed they would be subject to call.

I yield to the Senator from Indiana.

Mr. HARTKE. I thank the Senator, and I would like to make a brief statement, if I could.

Mr. STENNIS. Well, I do not object.

MILITARY RETIREMENT RECOMPUTATION—THE NEED IS NOW

Mr. HARTKE. Mr. President, I just want to discuss the military retirement recomputation and the need for it at the present time, which the distinguished chairman of the committee has discussed with me many times and expressed his personal feeling that he has done the best he could to bring about some type of satisfactory solution to this problem.

But, Mr. President, it is both frustrating and dismaying to learn that the conference committee on the military procurement bill has decided to drop an amendment overwhelmingly approved by the Senate which would have provided a one-time recomputation of military retirement benefits.

I point out that this is not a complete recomputation in the terminology of the prior utilization of that term, but was a one-shot operation and was severely limited in its budget implications.

Three times the Senate has voted to approve this amendment, and three times it has failed to be approved by the conference committee. The action of the conference is a keen disappointment to me personally and to the nearly 1 million men and women who deserve recomputation and who would have benefited from the passage of my amendment.

Make no mistake about it, military retirement recomputation is needed. The need to bring equity in the pay to retiring military personnel is recognized practically everywhere. An article in the June 30 edition of the Washington Post makes that fact clear. It describes the plight of military retirees in the Washington, D.C., area. For example, one former Army sergeant who retired after 20 years' service because of recurring ulcers, wants to leave the soldiers' home here. But he cannot afford to live on his $326.61 a month retirement check. The wife of another retired Army sergeant, disabled after serving 3½ years in a Japanese prisoner of war camp, worries about the day she will have to live on 55 percent of her husband's $290.73 a month retirement check. These are just two examples of literally tens of thousands of similar cases throughout the United States.

Congress cannot afford to ignore the needs of its older citizens. We have spent much time on improving social security and railroad retirement benefits, on civil service pensions and on reforming the private pension system. We must give the same attention to those who fall under the military retirement system, for after all these are all men and women who have served their country well.

Retired military personnel are expected to be satisfied by the promise of the distinguished chairman of the House Armed Services Committee, Mr. HÉBERT, that exhaustive hearings will be held on reform of the entire military retirement system, including the need for recomputation.

But those who have retired are tired of hearings by the House, they expect the House to respond to their needs and not respond to the need for hearings. Those hearings could be held anyway, and there is no reason why they should not be, but in the meantime the one-shot recomputation could be made a reality for them.

I do believe the retired military associations have done an excellent job in

educating Members of Congress on the need for military recomputation, and I would like to publicly thank them for all of their efforts on behalf of my amendment. I am also grateful to all those men and women around the country who supported my efforts to get legislation passed.

It is encouraging to note that Representative BOB WILSON of California has secured 113 cosponsors for a bill which is identical to the one I offered before the Senate. This support should have served as a catalyst to House acceptance of the need for recomputation.

Mr. President, this is an issue which will not go away, and I intend to do everything within my power to see that military retirement recomputation is passed into law.

I would like to address myself to the chairman of the committee and ask this question: Would the Armed Services Committee, in view of the repeated action by the House of Representatives' counterpart indicating that this matter is not germane, be willing to have the Senate assign the responsibility of dealing with this matter to the Veterans' Affairs Committee of which I am the chairman?

This suggestion was made by the distinguished Senator from Arizona to me at the time, he encouraged me to withhold the amendment on the floor, assuring me at that time that he was very sympathetic to the approach, that maybe they could more adequately deal with the matter.

Senator GOLDWATER is on the floor and I want to thank him for that suggestion, but I would like to ask the distinguished chairman of the committee whether or not he would be willing to have the Senate reassign this matter to the Committee on Veterans' Affairs.

Mr. STENNIS. Well, if I may answer your question by giving a little background here.

This matter of the Hartke amendment on recomputation was taken up repeatedly in the conference and discussed at great length, even though the House announced the position in the beginning that it was nongermane and they would stand on that fact. However, they were not indifferent to the problem that goes with this matter of recomputation.

You mentioned Representative BOB WILSON and he took a very active part in the conference on the matter. The Senator from South Carolina was most active in the conference trying to get the Hartke amendment, or some phase of the Hartke amendment, adopted. He made definite concrete proposals to that end, and he had the computerized figures there to support his proposal. He is on the floor and I am going to defer, of course, to him to answer that part of the question, but I am pointing out now that he was quite active, and the Senator from Arizona (Mr. GOLDWATER), who is also on the floor was also interested and was active in this matter.

Now, reading from the conference report, page 50, there is this statement:

The House conferees indicated plans to consider major legislation revising the military retirement system in the future and indicated that recomputation proposals would have an opportunity to be presented during those hearings.

In other words, this is a promise on the part of the House to consider major legislation revising the military retirement system. There is a bill, that I call an administration bill, that proposes to revise the system to make some so-called penalties for early retirement and add some provisions about qualifications for retirement.

But that bill does not deal separately nor primarily with the recomputation system, as the Senator from Indiana knows.

Mr. HARTKE. Yes.

Mr. STENNIS. Now let me specifically answer the question. This recomputation, even though we have not been able to handle it here, is a matter so intimately connected with military retirement—in fact, that is all it is—where we have unquestioned jurisdiction—that I do not think we could waive under the set rules of the Senate. So I would not make any kind of promise that was an attempt to surrender or waive or evade or be dilatory with reference to our jurisdiction and our responsibility.

Mr. HARTKE. Let me say to my distinguished friend that I understand what the Senator is saying. I do believe, though, that the question of which committee is to receive the jurisdiction is a matter for the Senate ultimately to decide. I do not think that at this moment it would be out of the purview of the legislative authority of the Veterans' Affairs Committee to deal with this matter, and thereby to some extent, at least, obviate the difficulty of nongermaneness which the House of Representatives has consistently applied to military procurement bills.

As the Senator has pointed out, the fact that the entire retirement system is to undergo review for the future, and the fact that the administration has even suggested such a proposal, would, in no way, really deal with the heart of the issue which is involved in this recomputation.

The distinguished Senator from Texas is in the Chamber. I might point out that he has been a very outspoken leader in this field. In my judgment, I am not sure, but I think his bill predates any other legislation, including that which I have introduced. In fact, I think he was the forerunner in this whole field. His measure is much more comprehensive and much more expensive, by the way, than the one which we adopted on the floor of the Senate.

I would hope that we could have some consideration by the committee, either by action of the committee itself or otherwise, to ask the Senate to refer the matter to the the Veterans' Affairs Committee, or, in the alternative, if that seems impossible, the possibility does exist—and the former ranking minority member of the Veterans' Affairs Committee is on the floor, as well as the present ranking minority member of the Armed Services Committee (Mr. THURMOND)—that I would be willing to take the matter up with the Veterans' Committee to see whether or not they would be willing to submit a resolution from the committee for the Senate to assign this matter to the Veterans' Affairs Committee.

I would prefer that it be done with the acquiescence and the understanding that the Armed Services Committee has not been able, after three overwhelming votes in the Senate, to persuade the House of Representatives that it is in the best interests of good legislative practice to at least make some accommodation on this point.

Mr. STENNIS. Mr. President, I am advised that the House rules spell out the jurisdiction as to this matter clearly in favor of the House Armed Services Committee. Our rules are firm on it, too, as I see the situation. We are in no position to waive a rule or change a rule or anything like that.

I want to add that I made some proposals at the conference—I have repeated them here on the Senate floor before—for setting up some kind of a new system and then making some adjustment for this old one—to settle the thing and let us go on.

Mr. TOWER. Mr. President, will the Senator yield, so I can also respond to the Senator from Indiana?

Mr. STENNIS. Yes, I yield to the Senator from Texas for that purpose.

Mr. TOWER. Let me say that our chairman certainly was very positive in his representation of the Senate viewpoint on this issue. There is one certainty about Senator STENNIS, and that is that regardless of his attitude toward an amendment that is offered on the Senate floor, once it becomes the Senate position, he digs in and fights for it.

I assure my colleagues that the chairman did everything he could have done. I think he has underscored one of the problems over there, and that is that the Armed Services Committee of the House of Representatives does have jurisdiction of the matter there, and even if it were referred to the Veterans' Affairs Committee here, they would have to go to conference, ultimately, even if they got it through the Senate, with the same sort of problems facing them, or perhaps they could never get to conference because they would never get anything out of the House.

I might point out, however, that there was substantial sentiment on the part of the House conferees for some sort of recomputation system. I think perhaps we are eroding their resistance by the repeated passage of recomputation legislation here in the Senate. One member of that committee who favors our position was prone to remark that it seemed to him that the House conferees had come down with the "germane measles," which is a terrible pun, but the fact remains that we did try; and I wanted the Senator to be assured that the chairman and the ranking Republical member were both very active in pressing the Senate view.

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

Mr. MANSFIELD. Mr. President, I ask for the yeas and nays on the conference report.

The yeas and nays were ordered.

Mr. THURMOND. Mr. President, I rise in support of the conference report on H.R. 14592, the military procurement authorization bill for the fiscal year 1975.

The conference committee completed work on this bill July 23, over 1 month after the work began June 20. During this time the conference held 15 sessions. Mr. President, this has been the longest and most thorough conference on the military procurement bill in my memory. The Senate bill contained 29 language amendments as a result of floor action while the House bill contained only a few such amendments. Of this number, the conference accepted 18 of the Senate amendments in some form, rejected four altogether, and held that seven were nongermane.

Mr. President, this bill in its final form authorizes expenditures of approximately $22.2 billion. This amount is $340.1 million greater than that approved by the Senate, but $483.6 million less than that approved by the House. Thus the Senate was more successful than the House in holding the money items in line during this conference.

Mr. President, the distinguished chairman of the committee (Mr. STENNIS), led the Senate conference in his usual exemplary manner during this long and many-faceted conference. He has already provided for the Senate an item-by-item explanation of the conference results. However, I would like to comment on a few of the issues resolved by the conferees.

MANPOWER ITEMS

In yielding to the House manpower position, the Senate conferees took under consideration recent statements by the Secretary of Defense and the Secretary of State. Both of these Cabinet members indicated congressional reductions in military manpower would be unwise at this time because of various international implications.

Also, Mr. President, it was my own feeling that at some point in time we must bring stability to our active duty military forces. The Senate practice of forcing reductions on the military each year is very destabilizing to management of these large manpower resources. I am hopeful our committee will study the manpower situation very carefully next year through a special subcommittee so that this important area of national defense might be better understood by all of us.

RECOMPUTATION

Mr. President, the Senate once again fought for the recomputation amendment attached to the bill during the floor debate. Chairman STENNIS and all of the Senate conferees stood firm for the Senate position.

Unfortunately, the House took the position recomputation was nongermane. However, after long discussion the House conferees did agree to reconsider this issue during hearings to be conducted this year on military retirement legislation.

Mr. President, I personally presented to the conference a number of charts and data on recomputation which, in my opinion, placed the issue in a more understandable light. This resulted in the conference understanding for the first time that the cost of recomputation, when viewed on an annual basis, would be only a small percent of military retirement expenses in the remaining years of this century. This problem will not go away, and cries out for a just and equitable solution.

EXPORTING TECHNOLOGY

Mr. President, I was very pleased that the conference was able to reach an agreement on the Senate amendment tightening controls on the export of technology to Communist nations.

The Soviet Union has long desired to acquire the sophistication which is an integral part of our technology in computers and other advanced systems. It would be a grave mistake for us to allow export of these items in view of the fact that computers, for example, are an integral part of advanced missile systems.

The amendment offered by Senator HENRY JACKSON, of which I was a cosponsor, was altered in the conference. However, it remains a significant step forward in halting the export of defense related technology to the Soviet Union or other Communist countries.

RESERVE FORCES

Mr. President, from the outset of consideration of this bill I have taken strong objections to the fact that the Defense Department proposed a 48,000 force structure reduction in the Army Guard and Army Reserve without justification to the Congress.

While there may be units in the Reserve components which could be eliminated, or converted, in my view the Congress is making a grave mistake by not participating to a greater degree in any revised program.

While the conference approved the higher strength figures for the Reserve components adopted by the House, the 48,000 force structure reduction may be made despite these higher authorized force levels. I hope the Defense Department will exercise good judgement in carrying out their proposals in this area.

AID TO SOUTH VIETNAM

Mr. President, the conference agreed to a limitation of $1 billion on authorization for appropriation for support of South Vietnam forces.

This figure was a fair compromise between the two bodies and it is my hope the Appropriations Committees will not further reduce these funds. We have made too great a sacrifice in South Vietnam to allow this country to go without adequate military support to meet the continued high level of Communist military attacks.

In the bill the Senate provided, and the House accepted, better accounting procedures for management of this vital military aid.

Mr. President, before concluding I would like to point out that the Senate conference did an excellent job of winning acceptance for many of the amendments to this bill. It is difficult in a conference to obtain consent for a large number of amendments when the House generally has only a few such amendments. While some Senators will obviously be disappointed that their amendments were not accepted, or were changed, it must be realized that on balance the Senate conferees were very successful in holding a large percentage of the Senate amendments.

Mr. President, as the ranking minority member, in closing, I would like to commend all of the Senate conferees for the outstanding work done during this conference. Especially, I am grateful to the conferees on my side of the aisle—Senators TOWER, GOLDWATER, and DOMINICK—whose attendance and contributions during the conference were valuable and constructive.

Mr. TOWER. Mr. President, I believe that this bill is a good compromise measure and a tribute to the leadership of both Chairman STENNIS and Chairman HÉBERT.

In fact, Mr. President, all the conferees labored long and hard over this bill to achieve a compromise that would be acceptable to both the House and Senate. I believe this legislation merits the approval of the Department of Defense; I urge the Senate to promptly adopt the bill as reported out of conference.

In past years, I have warned of a growing Soviet threat at a time when in real dollars, defense spending was diminishing. That spending is now around 6 percent—indeed about 5.9 percent I believe—of the gross national product while the defense requests for money account for approximately 30 percent of the total budget. This compares to Vietnam period figures of 9.7 percent and 44 percent, respectively. In addition, these figures also compare favorably with the peacetime budgets of the 1950's and 1960's.

Yet today the Soviet strategic threat is far greater than ever before. They have over half again as many ICBM's as we and are allowed about a third again as many sublaunched ballistic missiles by the SALT agreement. The Russians have a new, large, presumably intercontinental range, bomber. In throw weight their advantage is even more alarming—and the gap is growing with the development and testing of four new nuclear missiles. When combined with the MIRV's currently being developed by the Soviets, this throw weight advantage will pose a significant danger to the survival of our land-based nuclear deterrent.

Looking at the conventional side of the defense picture, the situation also prompts major concern. The Soviets still face us in Europe with advantages in armored vehicles and aircraft. While major portions of our budget were devoted to Vietnam, the Soviets were free to continually modernize and upgrade their forces, this left the United States with a growing conventional gap which we must now try to overcome.

The point is, then, whether we can really expect to mount a credible defense against a significantly increased Soviet threat by spending less money. I do not believe so and have argued that this country must spend whatever is necessary to provide for the common defense at home and the protection of our considerable interests overseas. I believe this bill will allow the Defense Department to meet in large measure its commitments.

Of particular satisfaction to me is the fact that the bill supports the defense request for military manpower. I am as concerned as anyone about the size of headquarters and the inefficient use of our servicemen. But the answer to the problem of combat ratios is not to cut troop strengths, but rather to assist the services in converting nonessential manpower into combat manpower. This country needs every fighting man it can get if we expect to meet the conventional threat in Europe with a non-nuclear response, and I believe in the case of Europe we cannot save it by destroying it with tactical nuclear weapons. We should be concerned about manpower not only for this reason but also because it is so expensive. About 55 percent of the defense budget is devoted to manpower costs. This compares with about a third of the Soviet budget. With people costing this much, we must squeeze every ounce of fighting efficiency out of an organization. This means headquarters consolidations and unit reorganizations.

I believe the services are taking significant steps in this direction—in Europe, in the Far East, and here at home. For example, I would like to commend the Army for its recent headquarters staff reorganization which is most timely and appropriate in this period of rising manpower costs. A significant part of this reorganization was the consolidation of all ABM programs under one manager. This is most desirable since it permits an overview of the three program line items—safeguard, site defense, and advanced ballistic missile defense under the single ballistic missile defense mission. Our distinguished conferees recognized the inherent management efficiencies allowed by this consolidation and therefore authorized a total BMD line in their report.

The intent of this action is to allow the BMD program manager the necessary flexibility to utilize the sum of his available resources to achieve his program objectives. This is a sound and commendable approach to the efficient handling of the Army's BMD mission funding. With further reorganizations of this sort the services should be able to bring combat ratios and rising manpower costs under control at the same time they increase this Nation's combat power.

In 2 short years, America will celebrate its 200th anniversary—200 years of freedom. Thousands of lives and countless treasure have been sacrificed to maintain that freedom.

I hope that we will not forget the lesson of those years, and that is to avoid war be prepared for war.

Mr. GOLDWATER addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. GOLDWATER. Mr. President, I urge that this body support this conference report. It has been well worked out and I think that substantially everything that the Senate asked for has been retained, which in itself is somewhat of a victory when we consider the strength of the House Committee on Armed Services.

I particularly want to pay tribute to the chairman of the committee, the Senator from Mississippi (Mr. STENNIS), for his work, and I want to pay my respects to the staff of the Senate committee and the House committee. They rendered invaluable assistance to us during the conference. These are the gentlemen who worked out the language changes, who worked out the compromises, and really, although the chairman did yeoman work, I think the staff of both committees should receive their just due at this time.

Mr. President, I want to touch briefly on four aspects of this conference report and bill. The first will be manpower.

I know there were several attempts made in this body by amendments to cut the manpower strength of the armed services overseas. At that time the amendments were adopted by the Senate. However, at that time we were not confronted with the problems of the Middle East nor with the problems in the Warsaw Pact nations, nor with the problems in NATO.

Since passage by the Senate of these amendments, which would have decreased manpower, our Secretary of State and Secretary of Defense have been in deep negotiations with our potential enemy, the Soviet Union, have been in deep negotiations with the trouble spot of the world, the Middle East, and I think it was the unanimous opinion of the Senate conference group that this was no time to be cutting manpower.

Our manpower strength is more or less judged by horseback decision and judgment. Although we have not made mistakes so far, I think all of us would agree that reducing manpower to any degree at this time would be an indication to our potential enemies around the world that we were being influenced by sophists, that we were being influenced by a desire to isolate the United States. I am very glad, Mr. President, that we gave in to the House on this.

In giving in to the House on this matter, we also achieved a remarkable step forward in the elimination of the Civilian Reserve Air Fleet expenditure. We have not paid much attention to this expenditure over the years. I remember when it first started, back in the 1950's, when we found that it was necessary to have a reserve air fleet in the civilian airlines of our country. That might have been true at that time, it might even be true today. We were not equipped with enough information to make that judgment.

In fact, the Air Force itself did not ask for these moneys. The request came after the Air Force testified, and it came from the Department of Defense. We did, however, direct the Air Force to affirm overall strategic airlift requirements and capabilities, including the contribution of craft, to determine how best to effect such improvements.

This expenditure, although small in this year's bill, would eventually have resulted in an expenditure of well over $1 billion. This money in this bill would have been used to widen a C–47 and a DC–10 for use by existing airlines.

The bill would also have covered funds that we would have had to pay the airlines for the time that they were shut down and for the maintenance and so forth required to effect these changes. The feeling of the Senate was that if any agreement was reached with these airlines on the civilian reserve air fleet, any future negotiations should contain a payback to the U.S. Treasury on a long-term basis at proper interest rates. We feel that until the Air Force can substantiate the need for the civilian reserve air fleet, we should not spend any more of the taxpayers' money on this item.

Now, it may be that next year, or even in the interim, as the Air Force works on its report, we may become convinced that the improvement of the craft fleet, regardless of cost, might be necessary. I do not believe it will be. I look forward, however, to the judgments that are reached by the Air Force.

Another subject, Mr. President, which has been talked about this morning, is recomputation. As I remarked on the floor of the Senate when this amendment was offered by the Senator from Indiana (Mr. HARTKE), I did not think it was fair to the veterans and retired people of this country to be promised something that we knew could never pass a conference meeting. We know this because the rule of the House is that this is a nongermane subject, and I see no way in the world that this is going to be broken down, even though Representative Wilson of San Diego has over 130 signatures to a bill that would create recomputation.

I honestly think the only fair and honest way to go about this would be to introduce a bill or bills directed at recomputation in the Senate and in the House and have the Committee on Armed Services of each body consider these approaches.

I might say to my colleagues that we are talking about a tremendously expensive item when we talk about recomputation. I do not think the one-shot recomputation is fair, either, because we know that it will not be one-shot. Today, when a man who retired after 1958 lives through a 3-percent increase in the cost of living, he gets a 4-percent increase in his retirement. Every time this happens it is going to cause the retiree who retired before 1958 to come to the Congress and ask for another so-called shot. I think the fairest way—not the easiest but the best way—would be to have this handled in the regular legislative manner by hearings before the committee of the Senate and the committee of the House.

It would be my hope that the chairman of our Committee on Armed Services would so direct that any bills introduced on recomputation, regardless of their composition, be heard by our committee. Whether anything is done about them or not is beside the point.

The point is that, in my opinion, we are never going to help these people who retired before 1958, by continually introducing the Hartke amendment in Senate

after Senate, knowing full well that it can never be passed. I think this is unfair to the retired person and I think it is unfair to those of us who are forced to vote "present" or forced to vote against it because of the fact that we do feel that it is unfair.

In fact, it is a little bit on the dishonest side, because we know it is not going any place and it is very safe to vote for it when it is not going to become part of law.

In closing, Mr. President, I think that we are continually confronted by the problem of procurement. It is a subject that we have not given sufficient study to in either the House or the Senate. I think the subject of procurement is one that should demand the full attention of both committees of the House and the Senate, and even other committees such as the Committee on Appropriations and the Joint Economic Committee, because I am convinced, through many, many years of experience in this field, that we can save billions of dollars in procurement. In doing this, we have to go a little past what we have all learned in the last few days and set up in the Pentagon a joint team composed of procurement people of all the services to tackle this problem.

I read their report with great interest and wrote a comment to them. I thought it was fine, but they did not include the manufacturer. I think the manufacturer has to be brought into all of these discussions on procurement. If we do this, if we go about studying procurement, the mistakes that we make, the success that other countries have had, actually copying the methods that we threw out long ago, I think we can begin to save the taxpayers of this country a lot of money.

I think also, in this whole field of procurement, it is encouraging to know that the subcommittees and the full committees of the Armed Services of the House and the Senate are now turning their attention to weapons that we feel are better or just as good, at greatly reduced prices.

I shall give one example. We are now watching the development of the lightweight fighter, the F–16 and the F–17, both of these will sell for under $3 million. In many respects they will perform up to the F–15 and F–14, and in some respects will outperform them. We might argue that one F–15 or one F–14 is better than one F–16 and one F–17. I will not argue with that. But they are not better than three or four, which is what we are looking at when we look at weapons systems which cost under $3 million, and we are talking about building the inventory up with weapons systems that cost $10 to $15 million apiece.

Mr. President, those are my few remarks on the whole subject of the procurement authorization bill and its conference report. I again want to salute my chairman for the wonderful job that he did and again thank the members of the staff for their very, very valuable assistance.

Mr. STENNIS. Mr. President, fine statements have been made by the Senator from South Carolina and the Senator from Texas, followed by the Senator from Arizona. All are very knowledgeable members of our committee and of the Senate, and all were very helpful in this conference. I want to thank them for their assistance in the conference and in the preparation of this bill. It has been substantial. It is always constructive. I think the Senate owes them, and other members of our committee, too, deep appreciation for their work on this matter.

Mr. President, that prompts me to make an observation for whatever it may be worth. I want to appeal to the membership of the Senate. Next year when this procurement bill is being considered, if they are going to offer amendments, I suggest that they make some determination in advance as to whether or not their amendments are germane. That can be done by checking out the amendment with the staff of the House committee, and, in doing so, the staff of the Senate committee will be glad to help. When we go into conference with a handful of amendments, especially amendments from the floor, without hearings to back them up, we are hindered not only as to those amendments but as to the entire bill. They are a roadblock, to a degree, for the Senate conferees in considering major items that are in disagreement and major policy questions that are in disagreement within the bill.

I do not say that by way of complaint. It is just commonsense. This bill has grown to where it is an enormous bill. It includes policy questions that are necessarily involved. I mean policy questions beyond procurement, and matters of that type. It involves a great deal of foreign policy.

I have always tried to be rather circumspect about the jurisdiction of committees, but after serving awhile as chairman of the Armed Services Committee, I found out there was not any way to avoid this procurement bill spilling over onto the Foreign Relations Committee, and, in turn, Foreign Relations Committee bills spill over on us and affect the military policies.

We are in international policy. This legislation is certainly a major part of our Nation's position. I am not saying that that is incorrect. I think we have gone too far in some instances, but I am not advocating that the policy be abandoned.

The bill is wrapped up with enough problems already. Members like for their amendments to be considered, and I think that is commendable. Then if the amendments are adopted, the Members naturally want them brought back in the conference report to become the law of the land. I think that is commendable. But at the same time, if we just explore these matters a little more in the beginning, and find out what rocks there are on the road ahead, a Member can help his own position as well as help those who are handling the bill.

I call that to the attention of the membership. I will take the liberty of doing so again. It is something I have not done before. Maybe that was leaning over backward a little too much to keep from appearing to interfere with the rights of Members to offer amendments.

There is another fact worth emphasizing. The final conference figure that is in this bill, $22.159 billion, is $935 million below the budget request, which represents a cut of 4.2 percent. That is the result of this matter having been considered by the House committee and by the Senate committee.

Extensive hearings have been held, extensive debates in both the House and Senate, and then the 33-day period when the conference was going on between the two bodies. Anything that emerges from a bill with the scrutiny that this one had, any point that comes through, is bound to have some worth, some value, and some soundness in it or it would not have survived this terrific legislative process.

Mr. President, if anyone else wants to say anything, I will certainly be glad to yield the floor.

Mr. TOWER. Mr. President——

The PRESIDING OFFICER. The Senator from Texas.

Mr. TOWER. I was impressed by what the Senator said about the difficulty of drawing a sharp dichotomy between foreign relations and armed services. It is, of course, historic that the military serves as an instrument of diplomacy and, therefore, the two are inseparable. It is difficult to resolve jurisdictional questions from time to time.

I think it is without question that the Foreign Relations Committee gets into our business from time to time, and we must, of necessity, get into theirs. I think one thing that is foremost in the minds of every member of the Armed Services Committee is that the primary function of the military is to serve as an instrument of diplomacy. Therefore, we are very careful to consider what impact we might have on foreign policy when we make decisions in the Armed Services Committee.

In addition to commending my distinguished friend from Mississippi for his great statesmanship in the handling of armed services matters, I would be remiss if I did not also note that the distinguished ranking minority member, the Senator from South Carolina (Mr. THURMOND), has always approached his job with a zeal and a patriotism that I think is exemplary, and with a concern for the judgment of professional military men that I think is necessary.

We have in this country the principle of civilan control of the military. There has never been a military junta in control of the Government of the United States, and I foresee that there never will be. There has never been inordinate military influence in this country. But there comes a time when we must resort to the judgment of professional military men because they are in the best position to determine which weapons are best to fight with, and from time to time we must yield to that judgment.

I know of no Member of the Senate who has a finer appreciation of the high

quality of professional military men we have and for their judgment than Senator THURMOND. In a sense, he is certainly a great asset to any deliberation, either in our committee or in conference, and I commend him for it.

Mr. President, I am delighted to see that apparently there is no dedicated opposition to the adoption of this conference report. I am sure that there may be some votes in opposition to adoption of the report. But I think the fact that the Senate recognizes its responsibilities is the reason why there does not appear to be any considerable organized opposition to the adoption of the conference report. I think we have probably done one of the best jobs this year, in formulating and passing and ultimately bringing out of conference the military procurement authorization bill, that we have done in many years.

I believe that what we are doing is necessary to maintain the kind of military posture that will enable the United States to assert a position of world leadership and, through negotiation and peaceful contacts, to establish a climate of security and peace in this world which will afford all peoples who desire self-determination a climate in which they may have some reasonable hope of realizing that aspiration.

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

Mr. TOWER. I yield to the Senator from South Carolina.

Mr. THURMOND. Mr. President, I wish to take this opportunity to express my appreciation to the able and distinguished Senator from Texas for his kind words.

It has been my pleasure to work with the Senator from Texas on the Armed Services Committee for a number of years, and there is no more valuable member than he. He is well versed in military matters, he is a distinguished patriot, and he makes a fine contribution to our country on that committee.

Mr. TOWER. I thank the distinguished Senator from South Carolina for his kind remarks.

Mr. STENNIS. Mr. President, I expressed my thanks to the Senator from South Carolina while he was called away from the Chamber a few minutes ago, but I repeat my thanks now and join in the sentiments of the Senator from Texas.

I want to add this point: No senior minority member of a major committee could be more responsive nor more cooperative, wholeheartedly so, than the Senator from South Carolina. He is always willing to work on a problem. He is always willing to consider logic and reason. He shows a most wholesome attitude and spirit of cooperation.

There are many problems of a serious nature that pass unnoticed, more or less, that have to be attended to under our committee system by the two so-called ranking members of the majority and the minority. He and I consult all members and make little or no distinction between whether it is a minority member or a majority member we are consulting. We look for someone with judgment and knowledge of the problem.

No one could display a finer attitude and greater efforts than the Senator from South Carolina, and I appreciate deeply his work in this respect. I am delighted to thank him publicly, and I will send his charming wife a copy of these remarks.

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

Mr. STENNIS. I yield.

Mr. THURMOND. Mr. President, I wish to express my gratitude to the able and distinguished Senator from Mississippi for his kind remarks.

Incidentally, the Senator from Mississippi and I attended ROTC camp together after our junior year in college.

Mr. STENNIS. That is right.

Mr. THURMOND. So we have been in this fight for the Military Establishment for a long time. I have never known a more able or dedicated public servant with respect to trying to protect our country and keep it protected against its enemies than the distinguished Senator from Mississippi. It has been a pleasure to work with him.

Mr. STENNIS. I thank the Senator very much.

Mr. President, I yield the floor.

Mr. JAVITS. Mr. President, one of the provisions which was dropped in the conference, with the explanation that it was at the adamant resistance of the House conferees, was a provision adopted in the Senate by a divided vote. The amendment, of which I was the author, prevailed by a vote of 48 to 43. It would have made it impossible to blacklist colleges which had dropped ROTC from receiving, for education, officers who might choose to study there.

This provision, as I say, was resisted by the committee and voted by the Senate, notwithstanding that resistance, which it seems to me is a very significant point as indicating the fact that the Senate had a right to expect that the conferees would strongly contend for it.

I should like to read into the RECORD the managers' statement as to the explanation for dropping this provision:

> A floor amendment to the Senate amendment would have precluded the Department of Defense from denying financial assistance to any person pursuing an educational program solely on the grounds that such person is enrolled in a college that terminated ROTC.
>
> The House conferees were adamant that this provision be deleted from the bill.
>
> If the universities and colleges wish to divorce themselves from the training program offered by ROTC, the House conferees believe the Department of Defense should be allowed to withhold financial assistance to persons at those institutions. The choice of whether such colleges or universities desire to reinstate the ROTC is totally up to the institution.

Obviously, the Senate did not believe that any such blacklisting was justified, and voted accordingly.

The basis by which this is done is a provision in a report on a bill by the House Armed Services Committee and other statements, in preceding years, which indicates the disfavor of the House conferees to allow officers to go to universities or colleges which have dropped ROTC. Among these, of course, are some of the most eminent colleges and universities in the United States. One never knows that the list is exactly up to date at a particular minute; but when this amendment was argued on the floor, it included such distinguished universities as Harvard, Yale, Dartmouth, and Colgate, Columbia, Hobart, Pratt, and SUNY in Buffalo. My own university, NYU, was also on the list but is expected to be reinstated as it is likely to resume ROTC—I am sure for no reason connected with the blacklist.

Mr. President, it is well known that the chairman of the House Armed Services Committee is very, very strong on this matter. That has been widely admitted. I understand that. I happen to know the chairman very well and to like him very much. I understand perfectly that his feelings are strong. But I do not see how that can be substituted for congressional action.

Therefore, even though this amendment was turned down by the conferees, and our conferees were very careful to lay it at the door of the House conferees, it is to be noted that the statement here as to what is believed is related to the House conferees. The House conferees believed that the Department of Defense should be allowed to withhold financial assistance to persons at those institutions.

Mr. President, one could really make a very strong case that our conferees should not have agreed to delete this amendment at the behest of one House. But then there is yet an overriding responsibility of the Department of Defense, itself; because the Department of Defense has written a directive, under date of April 17, 1974, which went into the RECORD when this matter was debated, in which they say as follows, and I again ask unanimous consent that it go into the RECORD so that the official paper may be reported.

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

> ASSISTANT SECRETARY OF DEFENSE,
> *Washington, D.C., April 17, 1974.*
>
> Memorandum: For Assistant Secretaries of the Military Departments (Manpower and Reserve Affairs).
>
> Subject: Educational Policy Pertaining to Schools Which Have Withdrawn from ROTC.
>
> References: (a) OASD(M&RA) Memo dated June 5, 1973, Subj: Educational Policy Pertaining to Schools Which Withdrew from ROTC. (b) OASD (M&RA) Memo dated August 7, 1973, Subj: Educational Policy Pertaining to Schools Which Have Withdrawn from ROTC.
>
> The following statement supersedes the policy set forth in the referenced memoranda:
>
> "Department of Defense policy concerning attendance at schools which unilaterally withdraw from ROTC will be to reduce our educational commitments to them by refraining from their use except in justifiable instances and upon the concurrence of the Deputy Assistant Secretary of Defense (Education) on a case-by-case basis. We will continue to send personnel to these schools on a fully-funded basis only if the institution offers a course which is in the best interest of national security, the Military Service, and the individual. Should one of these schools reapply for an ROTC unit, the policy will no longer be applicable to that institution. Additionally, the policy does not apply to health and medical professional education."
>
> A list of the schools which have unilaterally withdrawn from ROTC and have not re-

applied for a unit are shown in the attachment.

WILLIAM K. BREHM.

Mr. JAVITS. This memorandum says:

We will continue to send personnel to these schools—

That is the schools which are otherwise blacklisted—

On a fully funded basis only if the institution offers a course which is in the best interest of national security, the military service, and the individual.

Now the report of the managers leaves us with really no knowledge of what will or will not be the future policy to be pursued by the Department of Defense except all that we know is that the Department may or may not comply with this memorandum, which is very flexible in its nature, and I assume could be applied to practically any college or university.

Also, we know that certain exceptions have been made on a particular case basis and it is believed—I only state that as a belief—with the concurrence of the chairman of the House Armed Services Committee.

Now, Mr. President, I must say with all respect that this is a pretty messy way to operate an army or to operate a Congress. Here we have a policy which is based upon a statement and a report on a bill emanating from the Armed Services Committee of the House. Now we have an amendment made by the Senate showing the Senate does not agree with that policy, and we have the House saying through its conferees that it wishes to stand by whatever it said in the original report on a bill which resulted in this policy, which leaves us completely up in the air as to what policy the Department of Defense is on.

It seems to me that it should be very clear that the hands of the Department of Defense are completely untied if the Senate and the House disagree. Therefore, I will address a question to the chairman of the committee, Senator STENNIS, for whom we all have such high regard, as to whether it is now legitimate to say that at the very least in this matter the House and the Senate do disagree and that there is nothing that has been done by the conferees to compromise the Senate's view, except that the House would not concur?

I yield to the Senator.

Mr. PELL. I congratulate the Senator on the stand he has taken here, as a cosponsor of his amendment when it was presented in the Senate, I am very disappointed it did not prevail in the conference. I think the attitude of the House conferees and also the Defense Department in this regard is a petty one, emphasizing revenge because the educational institutions, in the heat of the conflict over Vietnam decided they did not want to continue ROTC programs.

Personally, I did not agree with that decision, by these colleges and universities but that is not important. The fact is that they made the decision and I do not believe the termination of ROTC is a sufficient reason to deny training in those institutions to officers of the Armed Services. I think the blacklisting policy is a very petty one, that is not based on the best traditions of our country, but on simple revenge.

I would hope very much in the administration of this program the Department of Defense would act more realistically and allow members of the Armed Services to attend the best schools, with the best courses, regardless of the past history of ROTC units.

Mr. JAVITS. I am very grateful to Senator PELL for his statement, and he did join me in the amendment, which was a successful amendment, I am very grateful to him for that.

Mr. PELL. I would add, I have an institution in my own State, Brown University.

Mr. JAVITS. Exactly.

Mr. PELL. That university is affected by this blacklist.

Mr. JAVITS. Adversely affected.

Mr. PELL. The Senator is correct.

Mr. JAVITS. Mr. President, the members of the Armed Services Committee will know this much better than I, but I understand this matter has been a considerable source of disaffection among younger officers of the armed services themselves who wish to study at some of these fine institutions, but are prevented from doing so by the policy of the Department.

Now, I need not protest my affection for Senator STENNIS. He knows I ask these questions only for the hope of the seeming deadlock that has occurred and trying to see some way out.

It will be noted, the statement of the House conferees says that the Department of Defense should be allowed to withhold financial assistance to persons at those institutions.

My first question, therefore, to the Senator would be, Does he believe that the use of this word shows that the Department of Defense has discretion in the matter?

The PRESIDING OFFICER. The hour of 12:15 has arrived.

Mr. MANSFIELD. I ask unanimous consent for 5 additional minutes and then the vote.

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

Mr. STENNIS. Would the Senator briefly restate his question?

Mr. JAVITS. Of course.

All I was trying to get was because the House conferees managers used the word "allowed," "the Department of Defense should be allowed to withhold financial assistance," does the Senator construe that, as I do, to mean the Department of Defense has discretion in the matter?

Mr. STENNIS. Well, this is a difficult matter, and it is a sensitive subject. I personally believe that the man that is going to the college or university ought to be in on making the choice.

Now, I think he is entitled to some consideration there, but the law does not mandate that point. I did not vote for the Senator's amendment because I knew it would be a troublesome matter. I personally think that the universities that closed down the ROTC units could well make a move themselves, conciliatory to the Department of Defense.

I think that is a reasonable position, but we tried to get the Senator's amendment adopted. I did not know until the Senator pointed out here that a majority of the conferees voted against the amendment. I did not know it and I doubt that any of them knew it. We tried hard to get the Senator's amendment adopted and it just was not agreed to.

Now, I do not know any law that keeps the Department of Defense from making a choice as to this matter, but in their discretion they do not have to do it, as I see it.

Of course, there is objection to it, and they are being discreet about it. That is about the best I can tell.

Mr. JAVITS. That is, they can move either way.

Mr. STENNIS. I do not know of any mandate either way. I think, therefore, it is possible for them to move either way, but they use their discretion, naturally.

Mr. JAVITS. Senator STENNIS, one other question.

Is there anything the Senate conferees did which would compromise the Senate digging in on this position for the future in line with this amendment?

Mr. STENNIS. I frankly cannot recall any compromise position we took. I cannot think of any now except what I have said.

Maybe the universities could make a move, conciliation of some kind, and ask for a conference, that might lead to something.

You cannot make men agree in conference. The Senator from New York is one of the most effective conferees I have ever known on these bills, the more controversial the better he is, but he knows he cannot make men agree, not in the conference.

Mr. JAVITS. Well, I thank my colleague very much. I think he clarified the situation.

All I say is that I pledge myself to continue indefatigably with this until some justice is done in the matter, and the Senator has indicated clearly how he feels intellectually and I understand the practical situation.

Mr. STENNIS. I thank the Senator.

The Senate had a fine debate on this bill. The issues were thoroughly discussed.

As I have said, I believe the conferees have brought back a good agreement on items in dispute. In sum, I believe this bill will authorize the hardware and manpower needed by the military services in the fiscal year now underway.

I believe the Senate should now approve this conference report on the authorization bill so that the Appropriations Committees can complete their work.

I ask that the conference report be approved.

I also request unanimous consent to have printed at this point certain charts and summaries.

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

AMENDMENT SUMMARY: CONFERENCE—H.R. 14592

Senate amendments not in House bill: *28.
Number retained in full or modified: 15.

*This does not include 3 minor technical changes.

Number not retained: 13.

House amendments not in Senate bill: 5 major, 4 minor.

Number retained in full or modified: 5 major, 2 minor.

Number not retained: 2 minor.

(Senate-passed amendments—10: 9 retained, 1 not retained.)

(Senate Committee amendments—18: 6 retained, 12 not retained.)

SENATE AMENDMENTS RETAINED IN CONFERENCE

I. Senate-Passed amendments in contention in conference:

Sponsor, amendment, form as agreed by conferees, and conference report page no.:

Humphrey, Dogs in research, Modified. As passed, amendment prohibits testing gases and chemicals on dogs. *As modified,* dogs may not be used in research for the purpose of developing biological or chemical weapons to destroy life but may be used for research to improve and save lives, 45.

Humphrey, Culebra, Modified. As passed, amendment prohibited funds for target practice on Culebra after Dec. 31, 1975. *As modified,* target practice on Culebra or the nearby keys is prohibited during any time that negotiations for an alternate site are halted by the U.S. Purpose is to spur negotiations, which are already required by law. Letter has been received from Secretary Clements reiterating intention to relocate target practice by Dec. 31, 1975, but only after permanent site is agreed upon. House conferees were very concerned that adequate practice facilities be available to the Navy and did not want to dictate a cut-off date by law, 46.

Nunn, High School graduates, Same as passed by Senate, 47.

Mansfield, Minuteman testing, Same as passed by Senate, 48.

Hughes, Authorize Army to give master's degrees, Same as passed by Senate, 49.

Jackson, SecDef review technology exports. Modified. As passed, SecDef reviews proposed technology exports to "controlled countries" and makes recommendations to the President. If the President overrules the SecDef, he must report to the Congress, which can overrule in either House by majority vote. *As modified,* purview of SecDef is limited to goods and technology developed directly or indirectly as part of DOD research and development. Congress can overrule President by concurrent resolution, 50.

II. Committee amendments in contention in conference:

Sponsor, amendment form as agreed by conferees, and conference report page no:

Nunn, NATO support forces, Modified. As passed, amendment required 20% (23,000) reduction in Army support in Europe over 2 years, with SecDef permitted to increase combat strength in a like amount. *As modified.* An 18,000 person reduction in support in Europe is mandated over 2-years coming from all services, because House conferees thought the support reductions would be excessive if taken only in the Army. Only 6,000 must be moved the first year. SecDef is authorized to increase combat strength by like amount, 38.

Nunn, NATO tactical nuclear weapons, Modified. As passed, amendment froze tactical nuclear warhead in Europe except in event of hostilities. *As modified,* freeze is only until June 30, 1975, 39.

Nunn, NATO standardization, Modified. As passed SecDef must study standardization of weapons in NATO and bring the assessment to the attention of NATO. *As modified,* the assessment must be reported to Congress first, 39.

Nunn, Airlift crews, Modified. As passed, amendment stated Congressional policy that increases in strategic airlift crew ratios should be achieved by Reserves rather than actives. Required plan to effect increase, including test of "hybrid" concept in C–5 or C–141 aircraft. *As modified,* such increases should be achieved "to the maximum extent possible by Reserves and test of hybrid concept is deleted. Incorporated House requirement for 91 flying units in the Air National Guard in FY 75, 40.

Taft, DOD use least costly form of manpower, Essentially same as passed in Committee. 42.

Committee, Langauge on aid to S. Vietnam, Same as passed in Committee, 43.

Byrd, Transfer of naval vessels, Same as passed in Committee, 44.

Committee, AWACS—Buy 12, system must be cost-effective, Language same as passed by Committee, although the dollar amount was decreased, 17.

Committee, Training loads consistent with manpower strengths, Same as passed by Committee, 43.

SENATE AMENDMENTS NOT RETAINED IN CONFERENCE—H.R. 14592

Senator, amendment, reason Senate receded, and conference report page No.:

Javits, ROTC, House conferees were adamant that DoD should be allowed to withhold financial assistance from universities which unilaterally withdrew from ROTC, 43.

Proxmire, CIA–restrict domestic activities, Non-germane. House agreed to introduce and immediately consider comparable legislation. H.R. 15845 was introduced by Mr. Nedzi on July 16 and hearings began July 22, 44.

Proxmire, Enlisted aides, The House insisted that the congressional action last year of reducing the number of aides from 1722 to 675 had not been given an opportunity to work and that no further reductions should be made now. The Secretary of Defense is directed by the conference to study the situation and one or both Armed Services Committees will hold hearings, 44.

Biden, Prohibit all DoD economic pump-priming, Non-germane, 45.

Hughes, Continuation pay to medical corps officers in initial residency training, Non-germane; however the House recognizing the merits of the amendment agreed to introduce and promptly consider legislation on the subject, 46.

Bayh, Use all forms of media in recruiting advertising, House conferees insisted that the amendment was unnecessary because nothing in the law now specifically prohibits the use of advertising by any one specific media. House also believes amendment would require equal distribution of advertising funds without regard to cost-effectiveness, 47.

Kennedy, Stockpiling for Allies, House insisted the matter was complex and could hinder defense planning. No hearings have been held on the provision, 48.

Metzenbaum, Formal advertising required on contracts for medical supplies, Non-germane; however the House also argued that this would be a procedural change involving delays and complication in procurement of medicines and medical supplies, 48.

Fong, Study to find island other than Kahoolawe for target practice, House insisted Kahoolawe essential for target practice and noted 1972 DoD study to that effect.

Metzenbaum, Require reports on competitive bidding, Non-germane; however the House also maintained that the reporting requirement would not benefit Congress and that Congress can obtain adequate information now.

McGovern, Congressional awards for POWs, Non-germane; however the House recognized the merits of the amendment and will consider separate legislation. The legislation has been introduced in both the House and Senate (S. 3192) introduced by Senators Stennis and Thurmond in Senate).

Hartke, Recomputation, Non-germane, although the House conferees indicated plans to consider major legislation to revise the entire military retirement system. Recomputation proposals could be presented then.

Committee, A–7/A–10 Flyoff, Language no longer necessary because the A–10 was declared the winner by DoD.

HOUSE AMENDMENTS TO H.R. 14592—ACTION TAKEN IN CONFERENCE

I. Major

A–7D aircraft for Air National Guard, retained conference rept. page No. 16.

Line item authorization for naval vessels, retained, conference rept. page No. 22.

91 flying Air National Guard units required, retained, merged with Nunn amendment, conference rept. page No. 40.

Sec. Def. authorized to exceed civilian strength by 1%, modified to ½%, conference rept. page No. 42.

Nuclear navy, modified to define major combat vessels more narrowly and allow President to advise if requests for nuclear powered vessels are not in the national interest, conference rept. page No. 51.

II. Minor

Patrol frigate money to be used only if fire control system satisfactorily tested, not retained in bill, but language in report, conference rept. page No. 21.

Specific authorization for naval gunnery, retained, conference rept. page No. 29.

Flexibility in form of civilian employment, essentially retained, merged with Taft amendment, conference rept. page No. 42.

Language on aid to South Vietnam, not retained, conference rept. page No. 43.

H.R. 14592

FISCAL YEAR 1975 AUTHORIZATION CONFERENCE ACTION

TITLE I—PROCUREMENT

[In millions of dollars]

	Fiscal year 1975 request		House		Senate		Change from House		Conference	
	Quantity	Amount	Quantity	Amount	Quantity	Amount	Quantity	Amount	Quantity	Amount
Army aircraft:										
1. AH–1Q Attack Helicopter	21	27.5	21	27.5	6	15.0	−15	−12.5	6	15.0
2. Modification of Aircraft		165.0		160.5		158.3		−2.2		158.3
(a) Parachute product improvement		(2.2)		(2.2)				(−2.2)		(0)
Programs not in dispute				147.0		147.0				147.0
Recommended total				335.0		320.3		−14.7		320.3

H.R. 14592—Continued

FISCAL YEAR 1975 AUTHORIZATION CONFERENCE ACTION—Continued

TITLE I—PROCUREMENT—Continued

[In millions of dollars]

	Fiscal year 1975 request		House		Senate		Change from House		Conference	
	Quantity	Amount	Quantity	Amount	Quantity	Amount	Quantity	Amount	Quantity	Amount
Navy aircraft:										
3. A-4M Light Attack Skyhawk	24	57.3	24	57.3			−24	−57.3	0	0
4. A-7E Medium Attack Corsair II	34	138.2	34	138.2	34	130.7		−7.5	34	130.7
5. F-14A Fighter Tomcat	50	639.3	50	639.3	50	617.3		−22.0	50	617.3
6. AH-1J Attack Helicopter	20	24.9	20	24.9	14	19.5	−6	−5.4	14	19.5
7. T-34C Trainer Aircraft			18	7.0			−18	−7.0	18	7.0
8. Modification of Aircraft		338.5		335.0		333.6		−1.4		330.1
(a) T-34C Modification						(3.5)		(+3.5)		(0)
(b) OV-10 night gunship modification				(4.9)				(−4.9)		(0)
9. Spares and repair parts		374.2		374.2		373.4		−.8		373.4
(a) A-4M init. spares				(.8)				(−.8)		(0)
Programs not in dispute				1,388.2		1,388.2				1,388.2
Recommended total				2,964.1		2,862.7		−101.4		2,866.2
Air Force aircraft:										
10. A-7D Tactical Attack Corsair			24	100.1			−24	−100.1	24	100.1
11. A-10/A-7D Close Support Attack Aircraft	26	140.3	26	140.3	30	159.2	4	18.9	30	159.2
12. E-3A AWACS	12	494.4	6	247.2	12	494.4	6	247.2	6	328.7
13. E-3A Adv. Proc., Current Year		21.0		10.5		21.0		10.5		42.0
14. F-111F Adv. Proc., Current Year						15.0		15.0		15.0
15. MASF—A-37B Light Attack Aircraft	29	15.5	29	15.5			−29	−15.5		0
16. MASF—F-5F International Fighter	28	85.4	28	85.4			−28	−85.4		0
17. MASF—C-130H Tactical Transport	4	35.3	4	35.3		15.0	−4	−20.3		15.0
18. MASF—UH-1H Utility Helicopter	77	25.0	77	25.0			−77	−25.0		0
19. MASF—CH-47C Cargo Helicopter	8	18.9	8	18.9			−8	−18.9		0
20. Modification of Aircraft		766.4		608.5		604.3		−4.2		604.3
(a) MASF		(10.2)		(10.2)				(−10.2)		(0)
(b) Civil Reserve Air Fleet		(132.9)		(25.0)				(−25.0)		(0)
(c) C-141 Stretch		(50.0)				(31.0)		(+31.0)		(31.0)
21. Other Production Charges		126.7		126.7		102.9		−23.8		125.5
(a) MASF				(1.2)				(−1.2)		(0)
(b) ALQ-119 ECM pods				(22.6)				(−22.6)		(22.6)
22. Common Ground Equipment		120.2		120.2		110.3		−9.9		110.3
(a) MASF				(2.8)				(−2.8)		(0)
(b) Civil Reserve Air Fleet				(7.1)				(−7.1)		(0)
23. Aircraft spares and repair parts		781.5		786.3		700.8		−85.5		722.8
(a) MASF		(57.6)		(57.6)				(−57.6)		(0)
(b) Civil Reserve Air Fleet		(15.0)		(15.0)				(−15.0)		(0)
(c) C-5/C-141		(8.1)		(8.1)				(−8.1)		(17.2)
(d) A-7D initial spares				(4.8)				(−4.8)		(4.8)
24. Component improvement		13.4		13.4		9.9		−3.5		9.9
(a) MASF		(3.5)		(3.5)				(−3.5)		(0)
25. War consumables		35.0		35.0		32.7		−2.3		32.7
(a) MASF				(2.3)				(−2.3)		(0)
26. Industrial facilities		31.8		31.8		29.5		−2.3		29.5
(a) MASF		(2.3)		(2.3)				(−2.3)		(0)
Programs not in dispute				991.3		991.3				991.3
Recommended total				3391.4		3286.3		−105.1		3,286.3
Army missiles:										
27. MASF—Tow Antitank Missile	24,000	107.1	24,000	107.1	23,860	104.6	−140	−2.5		104.6
28. MASF—Other spares and repair parts		18.4		18.4		18.0		−.4		18.0
Programs not in dispute				313.9		313.9				313.9
Recommended total				439.4		436.5		−2.9		436.5
Navy missiles:										
29. Phoenix	340	94.7	340	94.7	340	93.2		−1.5	340	93.2
30. Bulldog					1,000	23.1	+1,000	+23.1	500	15.4
31. Harpoon	150	78.2	150	78.2	100	70.5	−50	−7.7	150	78.2
Programs not in dispute				447.7		447.7				447.7
Recommended total				620.6		634.5		+13.9		634.5
Air Force missiles:										
32. Maverick	6,000	88.0	6,000	88.0	6,000	57.7		−30.3	6,000	80.1
33. Modifications		49.0		49.0		40.9		−8.1		40.9
34. Minuteman: Base Launch		13.6		13.6				−13.6		0
35. Missile spares: Minuteman Base Launch		2.0		2.0				−2.0		0
Programs not in dispute				1,458.2		1,458.2				1,458.2
Recommended total				1,610.8		1,556.8		−54.0		1,579.2
Marine Corps missiles:										
36. TOW	6 319	30.8	6 954	30.8	6 319	28.9	−635	−1.9		28.9
Programs not in dispute				45.2		45.2				45.2
Recommended total				76.0		74.1		−1.9		74.1
Navy shipbuilding and conversion:										
37. SSN Submarine (Nuclear attack)	3	502.5	3	502.5	2	335.0	−1	−167.5	3	502.5
38. SCS Sea Control Ship	1	142.9	1	142.9			−1	−142.9		16.0
39. PF Patrol Frigate	7	436.5	7	436.5	3	186.0	−4	−250.5	3	186.0
40. AD Destroyer Tender	1	116.7	1	116.7			−1	−116.7	1	116.7
41. Outfitting Material, all other		27.2		27.2		21.9		−5.3		21.9
(a) Various ships				(3.9)				(−3.9)		(0)
(b) MASF				(1.4)				(−1.4)		(0)
Programs not in dispute				2 313.3		2 313.3				2 313.3
Recommended total				3 539.1		2 856.2		−682.9		3 156.4
Army tracked combat vehicles:										
42. M578 Recovery vehicle	180	27.9	180	27.9	178	27.6	−2	−.3	178	27.6
(a) MASF	(2)	(.3)	(2)	(.3)			(−2)	(−.3)		(0)
43. M30A1 Turret Trainer (M60A1)	34	6.0	34	6.0	34	4.5		−1.5	34	4.5
44. MASF-M125A1 Carrier, 81 mm mortar	13	.8	13	.8			−13	−.8		0

H.R. 14592—Continued

FISCAL YEAR 1975 AUTHORIZATION CONFERENCE ACTION—Continued

TITLE I—PROCUREMENT—Continued

[In millions of dollars]

	Fiscal year 1975 request		House		Senate		Change from House		Conference	
	Quantity	Amount	Quantity	Amount	Quantity	Amount	Quantity	Amount	Quantity	Amount
45. M113A1 Armored Personnel Carrier	194	9.4	496	24.0			−496	−24.0	151	7.3
(a) Other			(302)	(14.6)			(−302)	(−14.6)	(151)	(7.3)
(b) MASF			(194)	(9.4)			(−194)	(−9.4)		(0)
46. Support equipment and facilities—items less than $500,000		1.6		1.6		1.1		−.5		1.1
(a) MASF		(.5)		(.5)				(−.5)		(0)
47. Support equipment and facilities—spares and repair parts		11.6		11.6		10.8		−.8		10.8
(a) MASF		(.8)		(.8)				(−.8)		(0)
Programs not in dispute				249.3		249.3				249.3
Recommended total				321.2		293.3		−27.9		300.6
Marine Corps tracked combat vehicles		80.1		74.2		74.2				74.2
Navy torpedoes		187.7		187.7		187.7				187.7
Army other weapons:										
48. Vulcan Air Defense System				2.3				−2.3		2.3
49. M202A1 launcher, incendiary rocket	3,049	2.6	3,049	2.6	2,003	1.7	−1,046	−.9	2,003	1.7
(a) Allied War Reserve								(−.8)		(0)
(b) MASF		(.1)		(.1)				(−.1)		(0)
50. M60 machine gun, 7.62 mm	6,000	5.0	6,000	5.0	1,237	1.0	−4,763	−4.0	5,906	4.9
(a) Allied War Reserve		(4.9)		(4.9)		(1.0)		(−3.9)	(5,906)	(4.9)
(b) MASF		(.1)		(.1)				(−.1)		(0)
51. MASF—M16A1 Rifle, 5.56 mm	9,114	1.3	9,114	1.3			−9,114	−1.3		0
52. Support Equipment and Facilities—Items less than $500,000		2.4		2.4		2.2		−.2		2.2
(a) MASF		(.2)		(.2)				(−.2)		(0)
53. Support Equipment and Facilities—Spares and Repair Parts		8.7		8.7		7.7		−1.0		7.7
(a) MASF		(1.0)		(1.0)				(−1.0)		(0)
Programs not in dispute				33.4		33.4				33.4
Recommended total				55.7		46.0		−9.7		52.2
Navy other weapons:										
54. Weapons under $500,000		.3		.3		.2		−.1		.2
(a) MASF		(.1)		(.1)				(−.1)		(0)
Programs not in dispute				25.3		25.3				25.3
Recommended total				25.6		25.5		−.1		25.5
Marine Corps other weapons		.5		.5		.5				.5
Grand total—Title I Procurement		13,805.1		13,641.3		12,654.6		−986.7		12,994.2

Note: MASF program:
House authorized MASF as part of Title I—Procurement.
Senate authorized MASF as Section 701—Funding Authority for Support of South Vietnamese Military Forces.

House-Senate difference on items requiring authorization are identified on separate sheet.

FISCAL YEAR 1975 AUTHORIZATION CONFERENCE ACTION

TITLE VII—SECTION 701

SUPPORT OF SOUTH VIETNAMESE MILITARY FORCES

[In millions of dollars]

	Fiscal year 1975 request		House		Senate		Conference	
	Quantity	Amount	Quantity	Amount	Quantity	Amount	Quantity	Amount
Air Force aircraft:								
1. A-37B	29	15.5	29	15.5			29	15.5
A-37 init. spares		.2		.2				.2
2. C-130 aircraft	4	20.3	4	20.3			4	20.3
C-130 init. spares		1.7		1.7				1.7
Army missiles:								
3. TOW launchers	51	2.0	51	2.0			51	2.0
Navy shipbuilding:								
4. Outfitting and post delivery (PG)		1.4		1.4				1.4
Army tracked combat vehicles:								
5. M-113 personnel carrier	194	9.4	194	9.4			194	9.4
6. M-125 mortar carrier	13	.8	13	.8			13	.8
Army other weapons:								
7. M60 machine gun	94	.1	94	.1			94	.1
8. M202A1 rocket launcher	84	.1	84	.1			84	.1
Programs not in dispute				212.3		212.3		212.3
Recommended total		287.4		263.9		212.3		263.9

TITLE II

RESEARCH, DEVELOPMENT, TEST AND EVALUATION SUMMARY OF CONFERENCE ACTION

[In thousands of dollars]

Program element	Fiscal year 1975 request	House		Senate		Conference
		Change	Authorization	Change from House	Authorization	
ARMY						
Aerial Scout	6,000		6,000	−5,360	640	1,916
Heavy lift helicopter	57,725		57,725	−21,200	36,525	36,525
Utility tactical transport aircraft system (UTTAS)	54,060	−5,000	49,060	+5,000	54,060	54,060
Cobra TOW		+4,500	4,500		4,500	4,500
Stinger	33,730		33,730	−1,500	32,230	32,230
Chaparral/Vulcan	7,229		7,229	−5,800	1,429	3,029
Site defense	160,000	−10,000	150,000	−40,000	110,000	123,000
Pershing II	11,200		11,200	−11,200		5,000

H.R. 14592—Continued

TITLE II—Continued

RESEARCH, DEVELOPMENT, TEST AND EVALUATION SUMMARY OF CONFERENCE ACTION—Continued

[In thousands of dollars]

Program element	Fiscal year 1975 request	House		Senate		Conference
		Change	Authorization	Change from House	Authorization	
ARMY—Continued						
Advanced forward area air defense system	44,668	−29,668	15,000	+29,668	44,668	30,668
Advanced ballistic missile defense	91,410	−26,410	65,000	+26,410	91,410	91,410
Cannon launched guided projectile	12,556	−6,256	6,300	+6,256	12,556	6,300
Surface-to-air missile development (SAM–D)	111,215	−11,215	100,000	+11,215	111,215	111,215
Kwajalein Missile Range	84,554	−4,554	80,000	+4,554	84,554	82,000
Bushmaster	7,030	−2,930	4,100	+30	4,130	4,100
Armored reconnaissance Scout vehicle	8,062	−3,762	4,300	−138	4,162	4,162
XM–1 tank	68,790	−3,790	65,000	+290	65,290	65,000
Weapons and ammunition	7,306	−1,600	5,706	+1,600	7,306	5,706
Lethal chemical munitions	4,894	−1,894	3,000	−6	2,994	3,000
Mechanized infantry combat vehicle	9,011	+1,700	10,711	−1,700	9,011	10,711
Triservice tactical communications program	37,273	−2,273	35,000	+2,273	37,273	36,000
Clothing, equipment, and packaging technology	2,220	+1,500	3,720	−1,500	2,220	2,220
Food technology	5,986	+500	6,486	−500	5,986	5,986
Surveillance, target acquisition, and night systems (STANO)	15,398	−2,398	13,000	+2,398	15,398	14,000
Classified program	20,529	−4,029	16,500	+4,029	20,529	20,529
Safeguard	60,794		60,794		60,794	60,794
Programs not in dispute	1,064,336		1,064,336		1,064,336	1,064,336
Total, Army program	1,985,976	−107,579	1,878,397	+4,819	1,883,216	1,878,397
Reimbursements from foreign military sales				7,973	−7,973	−7,973
Total, Army budget authority	1,985,976	−107,579	1,878,397	−3,154	1,875,243	1,870,424
NAVY						
Tactical air reconnaissance	5,300		5,300	−5,300		2,400
Classified program	5,700		5,700	−5,700		2,900
VCX (carrier on board delivery program)	4,961		4,961	−4,461	500	500
VFX fighter prototype	34,000	−34,000		+34,000	34,000	30,000
Surface launched weaponry	13,142		13,142	−4,000	9,142	9,142
Sanguine	13,205		13,205	−2,800	11,405	13,205
Surface missile guidance (adv.)	3,000		3,000	−2,000	1,000	1,000
Trident missile system	648,767		648,767	−15,000	633,767	641,094
Fleet ballistic missile system	46,669	−9,669	37,000	+9,669	46,669	38,669
Sidewinder	522	+5,000	5,522	−5,000	522	12,522
Air launched air-to-air missile (Agile)	19,987	−19,987		+19,987	19,987	
SLCM	44,971	−2,500	42,471	−4,500	37,971	41,000
Aegis	67,012	−17,012	50,000	+17,012	67,012	63,000
Close-in weapon system (Phalanx)	32,100	−20,000	12,100	+20,000	32,100	15,000
Surface missile guidance	32,222	−7,200	25,022	+7,200	32,222	25,222
Advanced ship development	19,042	−3,000	16,042	−400	15,642	16,042
Radar surveillance equipment (eng.)	10,940		10,940	−3,000	7,940	10,000
Surface effect ships	57,981		57,981	−12,200	45,781	45,781
Improved SSBN	16,000		16,000	−16,000		
Classified program	7,319		7,319	−4,000	3,319	6,000
Classified program	24,096		24,096	−1,900	22,196	24,096
U.S.S. Hip Pocket	3,129	−3,129		+3,129	3,129	995
Programs not in dispute	2,154,438		2,154,438		2,154,438	2,154,438
Total, Navy program	3,264,503	−111,497	3,153,006	+25,736	3,178,742	3,153,006
Reimbursements from foreign military sales				−27,700	−27,700	−27,700
Total, Navy budget authority	3,264,503	−111,497	3,153,006	−1,964	3,151,042	3,125,306
AIR FORCE						
A–10 aircraft	93,905		93,905	−12,500	81,405	81,405
F–4 avionics	13,600		13,600	−1,000	12,600	13,600
Aircraft equipment development	4,994		4,994	−1,000	3,994	4,994
Electronically Agile radar	8,000		8,000	−4,000	4,000	4,000
Gas turbine technology	14,789		14,789	−1,800	12,989	14,789
Advanced tanker/cargo aircraft	20,000		20,000	−15,500	4,500	8,000
B–1	498,973		498,973	−44,000	454,973	454,973
Air combat fighter	36,000	−5,000	31,000	+5,000	36,000	32,000
Advanced ballistic reentry system	119,943	−15,000	104,943	+26,900	131,843	124,000
Advanced air-to-air weapons technology	3,100	+3,100				
Air-launched cruise missile	80,000	−5,000	75,000	−11,000	64,000	71,500
Minuteman	142,900		141,900	−19,000	123,900	123,900
SLBM radar warning system	8,000	−8,000		+8,000	8,000	
NAVSTAR global positioning system	25,400	−2,500	22,900	+2,500	25,400	23,900
Conventional weapons	24,900	−4,900	20,000	+4,900	24,900	20,000
Improved aircraft gun system	9,690	−7,500	2,190	+10	2,200	2,190
Drone/RPV systems development	18,000		18,000	−11,000	7,000	17,000
Improved tactical bombing	11,828		11,828	−3,500	8,328	11,828
F–4/F–105 protective systems	5,400		5,400	−1,400	4,000	5,400
Joint tactical communications	15,700		15,700	−3,000	12,700	14,700
Minimum essential emergency communications network	7,500		7,500	−2,000	5,500	6,500
Advanced command and control capabilities	1,500		1,500	+5,000	6,500	6,500
Conus over-the-horizon radar system	12,300	−2,000	10,300	+2,000	12,300	10,300
Improved capability for operational test and evaluation	11,900	−3,100	8,800	+3,100	11,900	10,500
Precision emitter location strike system	25,100	−3,000	22,100	+3,000	25,100	22,100
Programs not in dispute	2,305,438		2,305,438		2,305,438	2,305,438
Total, Air Force budget authority	3,518,860	−59,100	3,459,760	−70,290	3,389,470	3,389,517
DEFENSE AGENCIES						
DARPA:						
Military sciences	41,100	−2,800	38,300	+2,800	41,100	38,300
Strategic technology	75,000	−6,000	69,000	+3,700	72,700	69,000
Management systems technology	2,743		2,743	−2,743		
Undistributed reduction		−8,000	−8,000	+8,000		−3,000
DCA:						
WWMCCS–JTSA	4,550		4,550	−1,000	3,550	3,550
Defense communications system	13,605		13,605	−3,500	10,105	10,105
Undistributed reduction		−5,000	−5,000	+5,000		
DMA:						
Mapping, charting and geodesy development	5,651		5,651	−1,000	4,651	4,651
Undistributed reduction		−2,000	−2,000	+2,000		−1,000

H.R. 14592—Continued

TITLE II—Continued

RESEARCH, DEVELOPMENT, TEST AND EVALUATION SUMMARY OF CONFERENCE ACTION—Continued

[In thousands of dollars]

Program element	Fiscal year 1975 request	House		Senate		Conference
		Change	Authorization	Change from House	Authorization	
DSA:						
Defense documentation center	11,778		11,778	−500	11,278	11,278
Undistributed reduction		−500	−500	+500		
DIA (classified)		−1,300		+300		
DNA (classified)		−3,000		+1,000		
NSA (classified)		−10,800		+5,800		
Technical support to OSD/JCS	18,800	−3,800	15,000	+3,800	18,800	17,800
Programs not in dispute	122,373		122,373		122,373	122,373
Total, Defense agencies budget authority	528,700	−43,200	485,500	+24,157	509,657	491,057
Director of Test and Evaluation	27,000	−2,000	25,000	+2,000	27,000	25,000
Total, R.D.T. & E. program	9,325,039	−323,376	9,001,663	−13,578	8,988,085	8,936,977
Reimbursements from foreign military sales				−35,673	−35,673	−35,673
Total, R.D.T. & E. budget authority	9,325,039	−323,376	9,001,663	−49,251	8,952,412	8,901,30

Mr. METZENBAUM. Mr. President, I rise today to express my disappointment that two amendments to H.R. 14592, which would have moved us closer to competitive bidding in military procurement were deleted from the conference committee report.

I am disturbed, not because I proposed the amendments, but rather because this is another example of Congress lacking the backbone to stand up for what it says it believes.

Many of my colleagues in this distinguished body have spoken out in favor of economy in government, especially in this time of rampant inflation. But when it comes time to apply this principle to military procurement, far too many of my fellow Members of Congress walk away from the problem.

Certainly this is the case with these two amendments.

My first amendment, adopted on June 7, by a vote of 38–23, would have taken a concrete step toward increasing competition in one clearly defined area of defense procurement that is presently exempt from important provisions of the Armed Services Porcurement Act—the purchase of medicine and medical supplies for the military services. I did not see then, nor do I see today, any reason whatever for all medical purchases to be exempt from formal advertising, whenever the Department of Defense so determines.

The percentage of medicine and medical supplies purchased through any type of competitive bidding has continually and dramatically declined over the last 5 years. At present, the Pentagon employs formal advertising for less than 5 percent of all medicine, and less than 6 percent of all medical supplies purchased. Other governmental bodies on State and local levels manage to use open bidding procedures for virtually all of their medical purchases. I see no reason why the Pentagon cannot adhere to such practices.

I further believe that both the Congress and the people of the United States are entitled to full justification in any instance when the Defense Department feels compelled to spend more than $1 million without resorting to formal advertising. This requirement, along with a second calling for a thorough GAO study of recent procurement procedures by the Defense Department provided the thrust of my second amendment to H.R. 14592, one adopted by a voice vote in the Senate on June 10.

The justification for this amendment, it seems to me is overwhelming. In 1965, formally advertised contracts constituted 17.5 percent of the value of all defense contracts let that year. In 1973, the last year for which information is available, formally advertised contracts declined to only 10.8 percent of the value of all defense contracts awarded.

Yet, a recent study by the Joint Economic Committee determined that the change from sole source to competitive bidding in the purchase of 17 sophisticated weapons and communications systems by the Pentagon over the past decade resulted in an average price reduction of 51.9 percent. In no case did competitive bidding raise the cost of a Pentagon purchase.

Despite the obvious dollar-savings advantages of both my amendments, the conferees deleted both as nongermane. I am astonished at this conclusion. How could anything be more germane to military procurement than requirements that seek to increase the use of competitive bidding?

Nor do I accept the logic that time-consuming hearings before the Senate Armed Services Committee are necessary for us to correct what is an easily identifiable wrong.

I believe that both of my amendments would have prodded the Defense Department to adopt a lean, tough attitude toward its huge shopping list.

At a time when we are paring human needs programs by the millions, we had the opportunity to trim the fat from the $90 billion military budget. We have missed that opportunity, for now. I have great respect for the chairman of our Armed Services Committee and I appreciate his efforts to retain these amendments in the conference, but I do feel a deep sense of regret that these small attempts to achieve economies in Pentagon spending were rejected.

I hope that both amendments will be considered in the 94th Congress. If we are to do anything to restrain total Federal spending, we must begin with the military budget, which represents about 70 percent of all controllable spending by the Federal Government.

Mr. PELL. Mr. President, when the Senate in June considered the military procurement authorization bill (H.R. 14592), I voted against final passage of the bill because I believed the legislation provided excessive and nonessential authority for increased defense spending.

Today, I have voted against approval of the conference report on this legislation for the same reason. Indeed, the bill as it emerged from conference provides authority for more Defense Department spending than did the bill as it was passed by the Senate. The Senate bill authorized $21.8 billion, and the conference report boosts that total by an additional $340 million and this includes only direct procurement authorizations.

In voting against the conference report, however, I emphasize that a major portion of the funds authorized by the bill are for programs and projects essential to an effective national defense. For example, specifically, the Senate bill and the conference report include $1,166,800,000 for the Trident submarine program, representing about 5 percent of the total funds in the bill. The Trident I believe is the capital ship of the future for our Navy, and is essential for a secure nuclear deterrent in the coming decades.

But considering the severe economic problems confronting our country, including a declining gross national product and spiraling inflation, I believe we have a particular responsibility to bring general Defense Department spending under control and to eliminate nonessential spending.

When we considered the bill in the Senate, I supported amendments to reduce substantially our military assistance funds to South Vietnam, and to cut back substantially the number of American servicemen stationed overseas. Unfortunately, those amendments, which would have saved hundreds of millions of dollars, were defeated.

The bill as reported by the conference committee is even more extravagant. It increases military assistance to South Vietnam by $100 million over the Senate bill to a total of $1 billion. Where the Senate had required a modest re-

duction of 46,213 in military manpower, the conference report imposes no meaningful reduction. Where the Senate bill had at least a modest provision requiring a reduction of 23,000 in noncombat support troops in Europe, that too was watered down to 18,000 in the conference report. In addition, the conference report restores nearly $400 million for further work on the B–1 bomber, a highly expensive new weapon system for which there is no clear-cut security justification.

If we are to keep Government spending under control, we must bring defense spending under control, and we must begin to make hard distinctions between essential expenditures and nonessential wasteful expenditures. It is because I believe this bill fails to do so that I have voted both against the bill when it was considered by the Senate against approval of this even more expensive conference report.

The PRESIDING OFFICER (Mr. HATHAWAY). Under the previous order, the vote will now occur on the question of agreeing to the conference report on H.R. 14592. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Arkansas (Mr. FULBRIGHT) is necessarily absent.

I further announce that the Senator from Minnesota (Mr. HUMPHREY) is absent on official business.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Kentucky (Mr. COOK), and the Senator from Hawaii (Mr. FONG), are necessarily absent.

I further announce that, if present and voting, the Senator from Hawaii (Mr. FONG) would vote "yea."

The result was announced—yeas 88, nays 8, as follows:

[No. 333 Leg.]

YEAS—88

Aiken	Fannin	Moss
Allen	Goldwater	Muskie
Baker	Gravel	Nelson
Bartlett	Griffin	Nunn
Bayh	Gurney	Packwood
Beall	Hansen	Pastore
Bellmon	Hart	Pearson
Bennett	Hartke	Percy
Bentsen	Haskell	Proxmire
Bible	Hathaway	Randolph
Brock	Helms	Ribicoff
Brooke	Hollings	Roth
Buckley	Hruska	Schweiker
Burdick	Huddleston	Scott, Hugh
Byrd, Harry F., Jr.	Inouye	Scott, William L.
Byrd, Robert C.	Jackson	Sparkman
Cannon	Javits	Stafford
Case	Johnston	Stennis
Chiles	Kennedy	Stevens
Church	Long	Stevenson
Cotton	Magnuson	Symington
Cranston	Mathias	Taft
Curtis	McClellan	Talmadge
Dole	McClure	Thurmond
Domenici	McGee	Tower
Dominick	McGovern	Tunney
Eagleton	McIntyre	Weicker
Eastland	Metcalf	Williams
Ervin	Mondale	Young
	Montoya	

NAYS—8

Abourezk	Hatfield	Metzenbaum
Biden	Hughes	Pell
Clark	Mansfield	

NOT VOTING—4

Cook	Fulbright	Humphrey
Fong		

So the conference report was agreed to.

Mr. STENNIS. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. THURMOND. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STENNIS. Mr. President, with this conference report, the Senate of course concludes its final work on the procurement bill for this year.

Like all complicated legislation, it would not have been possible to consider and complete the intensive work on these complicated subjects without the excellent assistance of the armed services staff, whose knowledge and experience are always valuable.

The Senate knows we have a relatively small staff of about 12 to 15 professional persons to handle our entire legislative load.

I wish to commend our entire staff which is headed by T. Edward Braswell, Jr., chief counsel and staff director. I want each staff member to be aware of the contribution he has made.

EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider the nomination of Rear Adm. Edwin K. Snyder, who is leaving the country this evening for a foreign assignment. The nomination was reported earlier today.

The PRESIDING OFFICER. The nomination will be stated.

U.S. NAVY

The legislative clerk read the nomination of Rear Adm. Edwin K. Snyder, U.S. Navy, for commands and other duties of great importance and responsibility commensurate with the grade of vice admiral within the contemplation of title 10, United States Code, section 5231, for appointment to the grade of vice admiral while so serving.

Mr. STENNIS was recognized.

Mr. STENNIS. Mr. President, I shall just take 1 minute.

The PRESIDING OFFICER. The Senator from Mississippi is recognized.

Mr. STENNIS. Mr. President, Admiral Snyder has been outstanding as our legislative liaison officer for a couple of years. He is being promoted now and is leaving tonight for Taiwan, where he has an important assignment. I think it would be well, since there is a unanimous report, if we could confirm this nomination today. I ask that the nomination be confirmed.

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

Mr. STENNIS. Yes, I yield.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, Admiral Snyder is one of the ablest naval officers with whom I have come in contact. He has rendered a very fine service here as Chief of Navy Liaison. I think that most of the Senators know him. I would hope that he could be confirmed right away so that he can proceed with his new duties.

The PRESIDING OFFICER. Without objection, the nomination is confirmed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the President be notified.

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

LEGISLATIVE SESSION

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

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

UNITED NATIONS WORLD FOOD CONFERENCE

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, appoints the following Senators to attend the United Nations World Food Conference, to be held in Rome, Italy, November 5–16, 1974: the Senator from Ohio (Mr. METZENBAUM), the Senator from Kansas (Mr. PEARSON), the Senator from Oregon (Mr. HATFIELD), and the Senator from North Carolina (Mr. HELMS).

ORDER OF BUSINESS

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

The PRESIDING OFFICER. Under the previous order, the unfinished business, S. 707, will be laid before the Senate.

Mr. MANSFIELD. I ask unanimous consent that it continue to be laid aside temporarily.

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

EXPORT ADMINISTRATION ACT AMENDMENTS OF 1974

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate turn to the consideration of S. 3792, a bill to amend and extend the Export Administration Act of 1969; that it be laid before the Senate and made the pending business; that it remain the pending business until the hour of 3 o'clock, at which time, debate on the cloture motion will get underway. At 4:15, the vote on cloture will occur. If the vote on cloture fails, then I ask, on the same status as of now, that the Senate then return to S. 3792, the Export Administration Act.

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

The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 3792) to amend and extend the Export Administration Act of 1969.

The Senate proceeded to consider the bill.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. BAYH. Will the Senator from Illinois yield for 1 minute for a unanimous-consent request?

Mr. STEVENSON. I yield.

Mr. BAYH. Mr. President, I ask unanimous consent that Mr. Howard

Paster and Ms. Barbara Dixon of my staff be accorded the privilege of the Senate floor during this debate. I have two amendments.

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

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. STEVENSON. I yield to the distinguished Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, on behalf of the Senator from Washington (Mr. JACKSON), I ask unanimous consent that the following staff members of the Senate Committee on Interior and Insular Affairs and the Permanent Investigations Committee be given the privilege of the floor during the debate, but not the vote, the debate on the pending measure: Mr. Richard Casad, Mr. Richard Perle, Mr. William Van Ness, and Mr. Arlon Tussing.

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

Mr. STEVENSON. Mr. President, I ask unanimous consent that the following staff members of the Committee on Banking, Housing and Urban Affairs be permitted the privilege of the floor during the consideration of this measure and the votes on it: Mr. Howard Beasley, Bill Weber, Stanley Marcus, Mr. Ed Kemp, Mr. Tony Cluff, Mr. Reginold Barnes, Mr. Ken McLain; and also two members of my staff, Chuck Levy and Anne Henshaw.

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

Mr. STEVENSON. Mr. President, S. 3792 is the product of a comprehensive reexamination of the Nation's export control policy. It makes extensive changes in existing law, and will greatly improve the Nation's capacity to respond to rapidly changing international economic conditions.

Over the past year and a half, international economic conditions have changed radically. A year and a half ago most of the major nations of the world were enjoying a simultaneous economic boom.

Today, many are on the verge of an economic bust. Inflation runs rampant—and threatens economic and social stability. Commodity shortages are pervasive—and impose crippling constraints on economic growth. Economic power is exercised for political purposes,—and in the case of oil, with serious disruption throughout the world, for rich and poor nations alike. Massive balance of payments deficits threaten to undermine the international financial system.

In these changed conditions, the international trading system is under serious strain. The tendency to withdraw is becoming more acute and the temptation to control exports is becoming more pronounced. Some countries restrict exports in order to maximize their gain from control over scarce resources. Others impose controls in order to protect themselves from the depletion of vital materials—or for national security purposes. Still others impose controls to restrain domestic inflation. And yet all—ironically—seek greater access to each other's supplies in order to sustain and enhance economic growth.

Woven throughout the debate on export administration are vigorously competing considerations. We are rightly concerned about protecting our own economy against excessive drains of scarce materials—food, fuel, fertilizer, ferrous scrap, and others. The American consumer suffers—especially the poor—when exhausted supplies of wheat and other grains drive prices to record levels. And the suffering extends to the hungry throughout the world when America's capacity to supply food is depleted by massive and unrestricted purchases by a handful of foreign buyers. When basic raw materials are unavailable, American industry is disrupted—and people are thrown out of work. And disrupted American industry cannot long supply manufactured products for the rest of the world.

Yet in seeking to maintain the strength of the American economy, we cannot simply close our doors. Exports are an important part of American economic vitality—increasingly so because of inflated energy costs and resulting balance-of-payments deficits. Moreover, the United States plays a vital role in international trade—and the example we set has wide ramifications throughout the world. If restrictions on access to supplies are to be broken down, the United States must take the lead. The alternative is a fragmented and cartelized international economy—with each nation pursuing the fleeting goal of total economic self-sufficiency. Down that road lies isolation and disastrous consequences for all.

The bill now before the Senate will help reconcile these competing considerations. It provides more flexible authority for dealing with short supply situations. It provides an early warning system for identifying those situations before they materialize. It requires the Government to analyze domestic and international economic conditions as shortages appear—and provides a prod for effective action to rectify those shortages before they become a crushing burden. And it provides for greater disclosure of information to the public and the Congress so that we can better analyze the effectiveness of governmental policy and, if necessary, devise alternatives.

The bill provides greater flexibility in the implementation of export controls by authorizing a new system of export fees and license auctions. The bill streamlines the procedures applicable to exports of high technology items in order to eliminate unnecessary delays. The bill provides improved interagency review and congressional oversight with respect to exports to Communist countries. And it provides a mechanism for hardship relief for those on whom export controls impose unfair burdens. Finally, the bill gives explicit recognition to the importance of international cooperation to secure access to supplies, favor of international rules, and institutions to achieve that goal.

The report which accompanies the bill describes each of these provisions in detail.

I will only summarize them briefly.

SHORT SUPPLY POLICY

Section 2 of the bill would amend section 3(2)(A) of the act by striking the word "abnormal." Section 3(2)(A) sets forth congressional policy on the use of export controls in situations of short domestic supply. As amended, it would read as follows:

It is the policy of the United States to use export controls (A) to the extent necessary to protect the domestic economy from the excessive drain of scarce materials and to reduce the serious inflationary impact of (abnormal) foreign demand . . .

In the past, one of the impediments to effective use of export controls has been the need to show that the foreign demand which produced an excessive drain of scarce materials and serious inflation was "abnormal." However, determination of an appropriate reference point for assessing whether foreign demand is normal or abnormal is impossible to do with any degree of certainty since trade patterns fluctuate. Moreover, in some situations, an excessive drain of scarce materials and serious inflation can result even if foreign demand levels have not changed significantly. This could occur where total supply declines for whatever reason. In that circumstance, even if foreign demand is at preexisting levels, there can be an excessive drain of scarce materials and serious inflation.

Under the change proposed by the committee, it will no longer be necessary for foreign demand to be abnormal before export controls may be imposed. Instead, controls may be used when foreign demand results or will result in both an excessive drain of scarce materials and serious inflation. This will greatly improve the administration's ability to take effective action when conditions of short supply develop.

MONITORING

Section 3 would amend sections 4, 5, and 10 of the act to require the Secretary of Commerce to monitor exports under specified conditions, to publish reports on such monitoring, to prepare analyses of the economic impact of shortages and increased prices for materials subject to monitoring, and to require other departments and agencies of the Federal Government to cooperate in rendering necessary advice and information.

Under this provision, the Secretary of Commerce would be required to monitor exports and contracts for exports of all materials not subject to the reporting requirements of section 812 of the Agricultural Act of 1970. Monitoring must occur when the volume of exports in relation to domestic supply contributes, or may contribute, to an increase in domestic prices or a domestic shortage and such price increase or shortage has, or may have, a serious adverse impact on the economy.

This new provision would further require that, to the extent practicable, information obtained through monitoring be aggregated and set forth in weekly reports. Such reports must describe actual and anticipated exports of the monitored material, the destination by country, and domestic and worldwide price, supply and demand.

In addition, the quarterly report for the first quarter of 1975 and semiannually thereafter must include summaries of the information contained in the weekly reports. Such quarterly reports

must also contain first, the Secretary's analysis of the impact on the economy and world trade of shortages or increased prices for materials subject to monitoring under this act or under the Agricultural Act of 1970, second, the probable duration of such shortages or increased prices, third, the worldwide supply of such materials, and fourth, actions taken by other countries in response to such shortages or increased prices.

INTERNATIONAL COOPERATION TO SECURE ACCESS TO SUPPLIES

Section 4 of the bill would amend the findings and policy provisions of the act in order to deal with the growing problem of politically and economically motivated restrictions on access to supplies. The purpose of this section is to recognize the dangers and to establish U.S. policy firmly in opposition to unreasonable restrictions on access to supplies and firmly in favor of international cooperation to combat such restrictions.

Section 4(a) would add to the act a congressional finding that unreasonable restrictions on access to supplies can cause political and economic instability, interfere with free international trade, and retard economic growth and development.

Section 4(b) would amend section 3(3)(A) of the act to make it clear that it is U.S. policy to cooperate with all nations—not only with those with which it has defense commitments—and assuring reasonable access to world supplies.

Section 4(c) would amend section 3(5) of the act to provide that it is U.S. policy to foster international rules and institutions to assure reasonable access to world supplies by all nations.

HIGH TECHNOLOGY EXPORTS

Section 5 would amend sections 4 and 5 of the act in order to reduce delays in the processing of license applications for materials subject to national security export controls and to improve the functioning of the technical advisory committees.

Section 5(a) adds a new subsection (g) to section 4 of the act to require that applications for licenses to export goods and technology subject to national security controls under the act be approved or disapproved within 90 days after submission of the application. If additional time for decision is required, the applicant must be informed of the reasons for the delay. The applicant must also be given an estimate of when a decision will be made.

In addition, section 5 would require the Department of Defense and the State Department to be members of the technical advisory committees; it would require the Secretary of Commerce to disclose to the committees the reasons for controls which have been imposed or which are contemplated; and it would require the Secretary of Commerce to report to the Congress within a year on the steps he has taken to expedite the processing of license applications.

OPPORTUNITY TO COMMENT ON LICENSING

Section 6 would amend subsection 5(b) of the act by adding a new paragraph which requires the Secretary of Commerce to give interested parties an opportunity to comment when export controls are imposed for short supply purposes. The provision requires the Secretary to publish his invitation to comment in the Federal Register and gives interested parties 15 days to submit written comments. The purpose is to give the Secretary, in the least cumbersome way possible, all relevant information on the impact of any export controls which he may have imposed and their method of implementation.

HARDSHIP RELIEF

Section 8 would add a new section 4A which provides a procedure by which certain persons adversely affected by export controls may petition the Secretary of Commerce for exemption from controls. The intent is to provide an opportunity for relief under prescribed circumstances for persons who have historically exported materials made subject to export controls. The provision codifies existing hardship procedures under Department of Commerce regulations.

Those eligible for relief would consist of any person engaged in a domestic business which utilizes products obtained from abroad but which are made from U.S. materials made subject to export controls as well as all other persons who have historically exported materials subject to the controls.

Within 30 days after receiving the petition, the Secretary of Commerce is required to notify the petitioner in writing of his decision, together with a statement of reasons.

Among the factors the Secretary of Commerce is expected to take into account in making his decision are the following: First, the adverse affect of the controls on domestic employment; second, the probability of insolvency of the petitioner due to the controls; third, the fact that the controls may interfere with the import of a product essential to the domestic business of the petitioner or some other party or may unduly disrupt a domestic business; fourth, the burden or adverse effect of the controls on a domestic business which manufactures in the United States a product which includes a critical component produced outside the United States from a commodity subject to controls.

INTERAGENCY REVIEW

Section 9 would add a new subsection 4(h)(1) section 4 of the act to establish review procedures for exports of goods and technology to "controlled countries"—defined to mean Communist countries as specified in section 620(f) of the Foreign Assistance Act, except for Yugoslavia, Romania, and Poland. This section is a modification of an amendment to the military procurement authorization bill adopted by the Senate on June 11, 1974. The purpose is to insure that the Department of Defense has an adequate opportunity to consider the military and national security implications of exports to Communist countries and that the Congress has a voice in the decision in the event of White House and Department of Defense disagreement.

In substance it provides that the Secretary of Defense must be notified of all requests for licenses for exports to controlled countries. No license may be issued until 30 days after the Secretary of Defense has been notified and the time for Presidential and congressional review, if applicable, has been exhausted. If the Secretary determines that the export would significantly improve the military capability of the recipient country, he must recommend to the President that he disapproves the export. Alternatively, the Secretary may notify the appropriate export control office or agency that he will interpose no objection, or that he will interpose no objection if appropriate conditions designed to achieve the purposes of the act are imposed.

If the President notifies the administering office or agency within 30 days after receiving the recommendation of the Secretary of Defense that he disapproves the export, the export is prohibited. But, if the President modifies or overrules the Secretary of Defense, he must submit his decision to review by the Congress. Congress has a period of 30 days of continuous session of both Houses thereafter to disapprove the President's decision by majority vote.

EXPORT FEES AND LICENSES

Section 10 would amend section 4 of the act to add a new subsection (i) which authorizes the President to use license fees or the auction of export licenses as means of carrying out the purposes of the act. License fees and license auctioning will constitute one of the many tools available to the Secretary of Commerce when circumstances justify the imposition of export controls.

Use of license fees and auctions as a means of export control can overcome the difficulties associated with allocations under present short-supply export control programs.

This new authority is permissive, not mandatory. The committee does not intend its use where it would work a hardship on small businesses. The committee also does not intend its use where it would deprive developing countries of access to adequate food supplies. In these, and perhaps other unique circumstances, the Secretary of Commerce should continue to rely on the existing practice of allocating export licenses among exporters and distributing export allocations on a country-by-country basis in order to insure an equitable allocation of American supplies of scarce goods throughout the world. In doing so, however, the committee expects market prices to prevail insofar as possible.

EXPIRATION DATE

Section 11 would extend the authority to impose export controls under the act for 3 more years from July 30, 1974, to June 30, 1977.

Mr. President, this bill represents months of hard work by the members of the International Finance Subcommittee as well as the full Banking Committee. I would hope that the Senate can quickly move to final passage so that its useful reforms can be implemented without delay.

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

Mr. STEVENSON. I gladly yield to the Senator from Utah.

Mr. MOSS. Mr. President, my question has to do with section 8 of the bill and particularly with the new section called Procedures for Hardship Relief From Export Controls.

On page 8 of the bill it indicates what the Secretary of Commerce will consider when a petition has been offered to him for relief from export controls. Some five factors are suggested.

My question is: In determining whether to grant hardship relief under section 8(a) of S. 3792, will the Secretary of Commerce consider the following factors in granting relief: one, that the petitioner is a domestic person who owns more than 50 percent of the foreign company, and that company uses the controlled materials in its manufacturing process; and, two, trade with the country where the foreign manufacturing is performed is in the national interest? I have a specific company in mind, but I would ask the manager of the bill if he can answer that question.

Mr. STEVENSON. The answer is affirmative. It was next to impossible in drafting this section to contemplate all the conceivable situations in which the Secretary should consider hardship and grant relief from the effect of export controls.

Consequently, the committee added subparagraph (5) on page 9, to authorize the Secretary to take into consideration any other factors in addition to those specified. I would think that the considerations which the Senator has mentioned would certainly fall within that subsection. They are exactly the kind of considerations that the Secretary ought to consider in determining whether or not to grant relief from the effect of export controls.

Controls in the case which the Senator puts would have—or could have—a serious adverse effect on a corporation with 50-percent ownership in a foreign company. Those serious adverse effects might also fall within the four specific standards of the bill.

The answer is "Yes," those are exactly the kind of considerations that we were intending to comprehend that subsection (5) would concern. They are the kind of considerations that I would certainly hope the Secretary would consider and take into account in deciding whether to grant relief from export controls.

Mr. MOSS. I do thank the Senator for that response and the legislative history that it creates. This company is historically doing that now. Concern came about as to whether they might not continue to receive the consideration since there was some new language. I just wanted to make clear that they could expect that at least that would be given consideration by the Secretary.

Mr. STEVENSON. Yes. Under this bill that company would have more remedies and a greater right to a review and to redress of any real grievances than it has under existing law because of the procedures established in this bill which are not now in the law. Its rights would be enhanced.

Mr. MOSS. I thank the Senator.

Mr. PACKWOOD. Mr. President, the Export Administration Act of 1969 expires today. The legislation we are considering will extend the act for 3 years. Among other things, this act authorizes the President to curtail or prohibit exports from the United States of any article, materials, or supplies for reasons of domestic short supply, foreign policy, or national security. Export of technical data can also be restricted on national security grounds. Authority to administer the act rests with the President who has delegated that power to the Secretary of Commerce.

Continuing authority to administer export controls is needed to carry out national objectives under all three of the statutory policy purposes.

First, there is still a need to control exports of commodities and technical data in the interest of U.S. national security. Although there has been significant progress toward improving relations with the Communist bloc, we still cannot allow these countries uncontrolled access to our strategic products and technology.

Second, it remains in the interest of both national security and U.S. foreign policy to maintain restrictions on trade with North Vietnam, North Korea, and Cuba. In addition, the foreign policy authority under the act is used to control exports of paramilitary items to the Middle East and to implement U.N. Security Council resolutions concerning trade with Southern Rhodesia, South Africa, and the Portuguese African territories. The critical need for such authority was further illustrated recently when our distinguished colleague from the State of Washington, Senator JACKSON, pointed out that police and surveillance equipment was being freely exported to Eastern Europe and the Soviet Union. Within 2 days, the Secretary of Commerce had appraised the situation and issued new regulations controlling such exports to Communist countries. Such a quick response to this issue could not have been forthcoming without the flexible authority contained in this act.

Finally, the development of worldwide commodity shortages during the past year has made it necessary for the United States to curtail exports of certain commodities in the interest of preserving domestic supplies. Authority to do so is of increasing importance to the national economy. Export controls are currently in effect on ferrous scrap and on petroleum and certain petroleum products. A broad range of other commodities are currently in a very tight international demand/supply situation, and this condition can reasonably be expected to persist in some degree for the foreseeable future. Although export controls are and should continue to be viewed as a measure of last resort, it is essential that the President retain the authority to impose them when absolutely necessary to deal with critical short supply problems.

TECHNOLOGY TRANSFERS

Concern has been expressed that the export of U.S. technology is contributing to the military capability of the Communist countries. This concern is heightened by the fact that U.S. companies have recently signed technical cooperation agreements with the U.S.S.R. and certain East European governments calling for exchanges of technology.

In my judgment, current controls over exports of technology to the Communist countries amply protect the national security. Because access to technological know-how is in many instances of greater strategic significance than possession of finished items produced from that technology, the Department of Commerce exercises a more restrictive control over transfers of technical data than commodities. Accordingly, the present Commerce Department regulations require that specific prior approval be obtained from the Department for the export of unpublished technical data to Communist destinations, regardless of the nature of the end product to be produced. Thus, the Department can effectively screen out proposed technology transfers with strategic implications for indepth review. And while the signing of a technical cooperation agreement with a Communist country does not, in itself, require the specific approval of the Department, to the extent that this technology is of U.S. origin and is not generally available to the public, which is usually the case, it may not be exported without the Department's prior approval. The present license requirements, in my opinion, provide an effective mechanism to prevent the export of U.S. technology that would be detrimental to our national security.

EXPORT LICENSING CRITERIA

Suggestions have been made that the Export Administration Act, as presently drawn, and the procedures of the Department of Commerce in administering it, do not adequately protect the national security of the United States because exports are permitted that will aid the military establishments of the Communist countries.

I believe this concern to be greatly exaggerated. The Export Administration Act does provide ample authority to control exports for national security reasons. And the Department of Commerce, with extensive use of an interagency consultative procedure, scrutinizes very carefully each application for a license to export to a Communist destination. The Departments of Defense and State, and the Atomic Energy Commission, invariably are involved in the review of each potentially significant transaction. This review takes into account such considerations as:

a. What is the normal use in the U.S. and elsewhere in the Free World?

b. Is the item designed for military purposes? Is the intrinsic nature of the commodity or data such as to make it of significant use to the military? Is it currently used importantly by the military establishments in the West? In the country for which it is destined?

c. If the item has both military and civilian uses, is the intended end-use peaceful in nature?

d. Is the prospective foreign end-use engaged in peaceful or military-oriented work?

e. Does the item incorporate advanced or unique technology of strategic significance that could be extracted?

f. Is there a shortage of the item in the

area of destination that affects the military potential?

g. Are comparable commodities or data available to the country of destination outside the U.S.? If COCOM controlled, are they available outside the COCOM countries?

I think a review of this nature, made in conjunction with the Department of Defense and other agencies, amply assures that the national security of the United States is being properly protected.

INTERAGENCY CONSULTATIONS

With further respect to export of technology and sophisticated goods and services, concern has been expressed that the Department of Commerce has not utilized fully the interagency consultation provisions of the Export Administration Act and has, in some instances, ignored the advice given it. I can assure the House that the interagency consultative procedure is an important element in the Department's determination as to what shall be controlled and the extent exports shall be limited. The Department has an Advisory Committee for Export Policy on which the interested agencies are represented at an assistant secretary level. The agencies include the Departments of Agriculture, Commerce, Defense, Interior, State, Transportation, and Treasury, the Atomic Energy Commission, and the National Aeronautics and Space Administration. In addition, there is an observer from the Central Intelligence Agency. There is also, at the senior staff level, an Operating Committee of the Advisory group which meets weekly to discuss export control policy problems and significant individual transactions. All applications to export commodities and technical data to the communist countries are processed by the Department in accordance with procedures established in consultation with the advisory agencies represented on the Advisory Committee for Export Policy.

If any agency objects to the proposed course of action, it is given full opportunity to appeal to a higher level.

Secretary Dent has continued the policy of several of his predecessors not to approve any transaction so long as any agency has indicated an intention to appeal a recommended course of action. In some instances, an agency will object, but indicate that, because of the marginal nature of the issue, the base does not warrant an appeal. Of some 3,000 cases referred to the Department of Defense in the past 2½ years, the Department of Defense objected to the issuance of a license in 13 cases but did not feel sufficiently strong about its objection to escalate the matter to higher echelons. Inasmuch as in each case the issue was considered a marginal one by the agency objecting but not appealing, the Department of Commerce, after taking other agency views into account, decided to approve the license.

When an agency objects and appeals a recommendation, the issue is carried progressively higher until the disagreement is resolved. In this process departmental or agency heads and, if necessary, the White House may be called upon to address the problem. In this 2½ year period, a strong objection to approval was raised by the Department of Defense in four cases and indicated it would appeal a contrary action to higher levels. In three of those cases the objection was sustained and in only one case it was overridden at the White House level. I believe these figures give some idea of how the mechanism that has long been in operation has worked to safeguard the national interests of the United States in the strategic export field.

In recent testimony before the Foreign Relations Committee's Subcommittee on Multinational Corporations, Commerce Secretary Dent discussed in detail the procedures followed by Commerce and other agencies in licensing the export of high technology goods. This statement is the best description of the administration of the act that I have seen. I ask unanimous consent that the text of Secretary Dent's statement be printed at this point in the RECORD.

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

STATEMENT OF FREDERICK B. DENT

INTRODUCTION

I am pleased to appear before your subcommittee today to discuss the Department of Commerce role in facilitating and directing U.S. investment projects with the Soviet Union, the People's Republic of China and the Eastern European countries with specific reference to (a) the administration of the export control program and (b) coordination with our European Allies.

Before going into detail as to the Department's role, let me describe briefly the interagency structure that has been established to deal with East-West trade policy questions.

EAST-WEST TRADE POLICY COMMITTEE

In the spring of 1973, President Nixon created an East-West Trade Policy Committee under the Chairmanship of his then principal economic advisor, George Shultz, Chairman of the Council on Economic Policy and Secretary of the Treasury. The President also designated me, as the Secretary of Commerce, to serve as Vice Chairman of the Committee. Other members of the East-West Trade Policy Committee included: the Secretary of State, Assistant to the President for National Security Affairs, the Executive Director of the Council on International Economic Policy, and the Special Representative for Trade Negotiations. The Policy Committee has met five times since its inception, the last meeting on May 15 being chaired by Secretary Simon following the departure of George Shultz from the Government. As you know, the President has only recently named Mr. Kenneth Rush, his Counsellor for Economic Policy, to replace Mr. Shultz as head of this activity and redesignated the body the President's Committee on East-West Trade Policy. The Secretary of the Treasury and I are designated as Co-Vice Chairmen of the Committee.

The Policy Committee has a Working Group which has been chaired by the Deputy Under Secretary of the Treasury and which meets more frequently than the Committee. Over the past year, some 15 working group meetings have been held to take up a number of East-West trade questions, including: U.S.–U.S.S.R. cooperative aviation programs, marine cargo insurance on shipments to the U.S.S.R., agenda items to be taken up at Joint Commission meetings with Poland, Romania and the U.S.S.R., and Eximbank actions relating to the U.S.S.R. Representatives from the member agencies participate as do other government agencies, such as the Departments of Defense and Agriculture and Eximbank, when appropriate. The Working Group discusses matters of current concern and prepares issues to be considered by the Policy Committee.

The East-West Trade Policy Working Group has proved to be very effective in bringing together a variety of expertise not readily available in a single-Agency effort. It has also facilitated coordination of policy development through lines into the U.S. Government agencies furnishing Working Group members.

BUREAU OF EAST-WEST TRADE

Within the Department of Commerce, the operating entity responsible for matters concerning trade with the Soviet Union, the People's Republic of China, and the Eastern European countries is the Bureau of East-West Trade. It was established in late 1972 with the mission of expanding trade and economic relations between the United States and the communist countries of Eastern Europe and the USSR, and the People's Republic of China. The Bureau carries out this mission by working with the governments of these countries to create a framework in which business can flourish, by working with the American business community to encourage and assist the development of profitable business relations with the communist countries, and by administering U.S. Government export control regulations in a manner that insures that U.S. security does not become compromised through trade.

ROLE IN FACILITATING TRADE

I would like to touch briefly on the first part of the subject on which I have been invited to testify today, i.e., the role of the Department of Commerce in facilitating and directing U.S. investment projects with the Soviet Union, the People's Republic of China and the Eastern European countries. Investment projects in these countries are, in most instances, considerably different from what is usually meant by that term in other parts of the world. Direct equity investment by foreign individuals and organizations permitted only in Romania and Hungary, and then only on a minority basis.

While one or two other communist countries reportedly are currently considering the enactment of laws that would permit foreign investment, the enactment of such laws in the foreseeable future by the Soviet Union and the People's Republic of China appears extremely remote. I have, therefore, in discussing the role of the Department in this field, used a much broader definition of "investment project" that includes any large transaction requiring substantial capital investment on the part of the country in which it is located regardless of whether or not an American company can participate in such investment as an equity partner.

The Department's role in these projects is entirely one of "facilitation" and includes nothing that would fall under the heading of "direction." Facilitation takes a number of forms. The Department, through the Bureau of East-West Trade, disseminates information on project opportunities, that is opportunities for the sale of equipment and machinery, through direct contact with U.S. companies, through industry associations, and through publication in Departmental magazines. Once a firm has begun actively to pursue a project, which it may or may not have found out about through our dissemination efforts, we stand ready to assist. If requested, should problems develop in the course of negotiating and concluding a contract. Assistance often takes the form of serving as a "middle man" in finding out the status of consideration of a contract proposal, in transmitting information between parties, and sometimes of suggesting com-

promises when parties have reached an impasse. We occasionally make representations to the host government on behalf of the U.S. bidder if we have reason to believe that they may be important to the U.S. competitor or that pressure is being applied by the governments of third-country competitors.

The Long Term Agreement between the U.S. and the USSR to Facilitate Economic, Industrial, and Technical Cooperation, which was signed during the President's recent trip to Moscow, strengthens and institutionalizes the facilitative role of the U.S. Government, in which the Department of Commerce plays a major part, by providing for periodic meetings to exchange information and by giving the already established Joint US–USSR Commercial Commission the responsibility for monitoring implementation of the cooperation envisaged in the agreement.

I would like to turn to some specific cases to illustrate the types of assistance and guidance the Department of Commerce has provided to the American business community with respect to major projects in the Communist countries.

HIGH ENERGY PRODUCTION PROJECTS

During the October 1973 session of the Joint US–USSR Commercial Commission, the Soviet Union suggested the possibility of cooperation between U.S. firms and Soviet organizations for the establishment of industrial complexes in the USSR for the manufacture of products requiring large amounts of electric power. Included would be production facilities for petrochemicals, ferroalloys, copper, and aluminum. The erection of these facilities would require the Soviet Union to import several hundred million dollars worth of equipment and know-how.

Acknowledging the potential importance of these and similar projects to future US–USSR trade and economic relations, the Department of Commerce undertook to refer the Soviet interest to potentially interested U.S. firms. During my official visit to the Soviet Union last April, I presented the Ministry of Foreign Trade with a summary of the steps the U.S. Government had taken to meet its commitment. Accompanying this was a request for additional information on each of these projects, in order that American firms might have a clearer picture of Soviet development plans for these industries. In response, the Soviets provided some additional project specifications during the May 1974 session of the Joint Commercial Commission that was held in Washington. Commerce is now in the process of relaying this additional information to U.S. industry.

AIR TRAFFIC CONTROL SYSTEM

Another example of project facilitation in the Soviet Union involves the current Soviet plan to modernize and expand its air traffic control system. In this case we were not the conduit for passing the initial information to the American business community.

Rather, we are assisting the American Institute of Aeronautics and Astronautics, other industry associations, and interested U.S. firms to develop detailed project information; we are working with the Department of Transportation's Federal Aviation Administration to see what input that agency could have that might assist the competitive position of U.S. industry; and we are continuing to work with a number of interested American companies to insure that U.S. export control regulations are understood and, therefore, do not become a problem at a later point in negotiations. Also, we sent a trade mission to the Soviet Union in April that included a number of U.S. companies that manufacture or sell air traffic control equipment.

This project could mean more than $100 million in U.S. exports over a ten year period and would add substantially to the safety of all aircraft and their passengers in the areas of the Soviet Union covered by the system, including American aircraft and passengers.

OTHER MAJOR TRANSACTIONS

Commerce has also been active in facilitating major transactions in Eastern Europe. Control Data Corporation, the first U.S. firm to establish a joint venture under Romania's 1971 Foreign Investment Law, worked closely with the Department in securing the necessary export licenses.

The Romanian Government has also requested the Department's assistance in finding American firms capable of supplying equipment and technology for a $200 million expansion of the Tirgoviste steel complex.

In response, we have individually contacted 500 U.S. equipment suppliers by letter and alerted them to this potential opportunity. Over 50 firms have been provided with detailed equipment specifications which were furnished to us by the Romanian Government. Department officials have also met with Romanian officials responsible for carrying out the equipment purchases, and World Bank officials regarding financing.

Taking Poland as another example, a recent visit by a Commerce Department representative to that country resulted in Polish requests for U.S. participation in the construction of three bearing plants worth in excess of $100 million, and two major canning plants. As a result of subsequent contacts with U.S. firms specializing in these areas, several machine tool manufacturers have submitted proposals for all, or part of, the bearing plants. The major U.S. can companies are reviewing the Polish canning plant proposal, and several potential subcontractors have held discussions with us.

The People's Republic of China presents a somewhat different picture in terms of Commerce involvement in major projects. The $125 million Boeing aircraft and $215 million Kellogg ammonia plant sales (each of which required and received validated export licenses) are the only examples thus far of U.S. involvement in major Chinese investment projects (as defined earlier in my statement). Other than the issuance of export licenses, these transactions neither required nor received any facilitation from the Department of Commerce. Our facilitation efforts with respect to China usually take the form of providing guidance to U.S. businessmen on how to establish contact with the Chinese and on the ways of doing business with that country.

UNITED STATES-U.S.S.R. TRADE AND ECONOMIC COUNCIL

Returning to our new trade relations with the U.S.S.R., both the Soviet and U.S. sides at the Washington Summit meeting in June 1973, recognized the need for a specialized organization to deal with the problems of U.S.-Soviet trade development, to serve the multiple business interests of its members and, at the same time, strengthen economic ties between the two nations. General Secretary Brezhnev committed the Soviet Union to cooperate in the development of such an organization. President Nixon pledged the best efforts of this government to urge American business to cooperate in the venture. A protocol was signed on June 22, 1973, reflecting these views.

Acting on behalf of the United States, I met with the chief executive officers of 24 major U.S. corporations. These corporations represented a broad spectrum of industry and a wide geographic distribution. They all had a strong interest in United States-Soviet trade, and were capable of concluding large-scale transactions. In addition, the chief executive officers of the National Association of Manufacturers and of the Chamber of Commerce of the United States participated in the meeting, and agreed to serve with the others as organizing directors.

Following a series of conversations with the Soviets, the United States-U.S.S.R. Trade and Economic Council, Inc., was legally constituted in October of 1973 as a private sector not-for-profit corporation under New York State law. A Board of Directors consisting of the 26 U.S. organizing directors, and 26 high-level Soviet economic and trade officials was named. Deputy Minister of Foreign Trade Vladimir S. Alkhimov and Donald M. Kendall became the Co-Chairmen. The Council formally opened for business on December 26, 1973, in its permanent offices in New York under the presidency of former Assistant Secretary of Commerce Harold B. Scott. A second Council office has been established in Moscow. The Council held its first Board of Directors meeting in Washington on February 26, 1974. The next Board meeting is scheduled for Moscow on October 15th, 1974. Membership in the Council is open to any American firm interested in trading with the Soviet Union. Membershp fees are structured to attract small firms.

The principal function of this Council is to effect direct contacts between American businessmen and Soviet economic organizations in order to promote two-way trade between the two countries. In that sense, its efforts supplement those of the Bureau of East-West Trade.

NATIONAL COUNCIL FOR UNITED STATES-CHINA TRADE

A Council has also been formed to promote trade with the People's Republic of China. In May 1973, with assistance from U.S. Government agencies, the private, nonprofit National Council for U.S.-China trade was established in Washington. Mr. Donald Burnham, Chief Executive Officer of Westinghouse, was elected Chairman of the Council's Board, and led its first mission to Peking last fall. The membership drive by the Board of Directors encompassed both large and small firms and aimed at having a Council composed of a broad spectrum of U.S. importers and exporters interested in trade with the PRC.

The Council now actively serves as a forum for the discussion of trade issues, as a focal point for business contacts, and for the dissemination of information on marketing in China. It provides translation and other services. With its counterpart in the PRC, the China Council for the Promotion of International Trade, the Council will facilitate the reciprocal arrangements of trade missions and exhibitions with the PRC. This Council's mission also supplements the efforts of the Bureau of East-West Trade.

EXPORT CONTROLS

Having set forth the Department's role in facilitating trade with the Soviet Union, the PRC and the East European countries, I will turn now to the measures we take to assure that such trade is conducted within the national security policy guidelines of the Export Administration Act of 1969, as amended.

Section 3 of the Act, in addition to stating a policy of encouraging trade, also stated that "it is the policy of the United States . . . to restrict the export of goods and technology which would make a significant contribution to the military potential of any other nation or nations which would prove detrimental to the national security of the United States."

WHAT IS CONTROLLED?

In implementing this policy, the Department of Commerce publishes a set of regulations which includes a list of commodities and indicates the destinations to which they may not be exported or reexported without our specific prior approval. The regulations also specify that unpublished technical data, with few specific exceptions, may not be exported or reexported to the USSR, the PRC, and Eastern Europe (as well as to those

destinations for which there is a general embargo policy such as Cuba and North Vietnam) without the Department's approval. While exports of unpublished technical data may be made to Free World destinations without specific authorizations, the regulations provide that under certain circumstances the recipient of such data must provide assurances that the direct product of the data will not be exported to proscribed destinations without the specific approval of the government. In the case of the Communist countries, the direct product of U.S.-origin data is under our control, if it is an internationally (COCOM) controlled commodity.

Lastly, the regulations provide that U.S.-origin parts and components may not be used in the production of foreign end products intended for export to the communist countries without our prior approval if the end product, were it of U.S. origin, would require the specific approval of the Department for direct export from the United States to the intended destination.

As part of the Department's export control activities, there is an active compliance program designed, not only to investigate alleged violations of our regulations and to prosecute, where violations are proven, but also to work with firms to facilitate adherence to our control requirements. Our compliance program does not end at the water's edge, but extends abroad to cover reexports of U.S.-origin goods and technology and the use abroad of such goods and technology.

The controls exercised by the Department of Commerce impact on multinational corporations in the same manner as they do on strictly domestic firms. Our control is over U.S.-origin commodities and data; it is not addressed to the nationality of the corporation nor to its size or complexity of operations. The fact that a subsidiary or affiliate is located abroad does not reduce one bit the legal reach of U.S. controls on exports. Such firms are accountable to the Department for their reexport of U.S.-origin goods or technology and for their use of U.S. origin technology and face compliance action for violations the same as do domestic firms.

COCOM ORGANIZATION

I mentioned earlier that the Commerce regulations include a list of commodities that may not be exported without our specific prior approval. Except for commodities under short supply export control, the vast majority of these items also are controlled by the 14 other Free World countries that cooperate with the United States in an international export control structure known as COCOM. This organization is composed of our NATO partners, except Iceland, and Japan. Organized in 1949, COCOM is an informal, non-treaty body that maintains a list of commodities which it is agreed are of strategic significance and whose export should be controlled. Each participating country, of course, maintains the right to control additional commodities if it so desires. There is also agreement to control technical data relating to the production of the items under international control.

COCOM periodically reviews the list of strategic items to make additions representing new technological advances and to remove those items which have become available to the communist countries through their own sources or which for other reasons have lost their strategic significance. The last review was completed in September, 1972, and the next one is scheduled to begin this fall. Under the COCOM rules of procedure, it takes unanimous agreement of the countries participating in the review to remove commodities from the list or to add new commodities to it. When COCOM was first established, the list of commodities under multilateral control was quite extensive.

Over the years, a succession of reviews has narrowed the list drastically so that now it covers a hard core of munitions and nuclear energy items and a highly selective list of high technology equipment and materials that have significant military as well as civilian uses. It is too early to predict the outcome of the pending COCOM list review, but if past reviews are any basis for judging, there will very likely be some modest modification—additions as well as reductions. These will reflect both technological advances in the communist countries and changing military uses in the West.

I would like to stress one point regarding the commodities on the COCOM list. The fact that a particular commercial item is under international control does not mean that it is embargoed for export to a communist country. If a participating country, having received an application to export a COCOM-controlled commodity to a communist destination, determined to its own satisfaction that the item will be used for a peaceful purpose, it can transmit the pertinent facts concerning the transaction to a working body of COCOM that meets regularly in Paris and seek the views of the other member countries. If the countries participating in the review of a transaction agree with the submitting country that the transaction is for a peaceful purpose, the transaction can be approved.

UNILATERAL CONTROLS

The fact that the list of commodities under control for national security reasons is closely aligned to the COCOM list is not an accident. Congress, in 1972, amended the Export Administration Act to require the removal of unilateral controls if the controlled items are available without restriction from sources outside the United States in significant quantities and comparable in quality to those produced in the United States, except that controls could remain in effect if adequate evidence is presented to demonstrate that the absence of control would prove detrimental to the national security.

The Department was required by the 1972 amendment to report to the President and to Congress within nine months from the date of enactment of the amendment and to list the commodities and technical data remaining under unilateral control together with the reasons for continuing such control. This was a clear mandate to reduce our controls to the multilaterally controlled COCOM level unless there was positive evidence to indicate that continued unilateral control was demonstrably necessary for national security reasons.

We reported on the due date that the list of unilaterally controlled commodity entries had been reduced from 550 to 73, and we gave the reasons for retaining controls over these 73. Many of the latter were specialty items with direct military application and no commercial significance. Others were "basket" entries containing an unknown number of individual commodities, some of which were militarily significant. Our subsequent review of the 73 remaining unilaterally controlled entries has resulted in additional decontrols where specific items of a peaceful nature could be identified.

Insofar as unilateral controls over technical data were concerned, the basic problem is that data related to the production of peaceful goods in many instances also relates to the production of products of a strategic nature. To decontrol the former creates a real danger that the latter would escape proper control. Continued screening of proposed technology transfers mitigates against this happening, and we expect that we will have to continue to control the export of a good deal of technical data, even where the end product is peaceful, to guard against the possibility that the data will provide a significant step up in the production of more sensitive products.

INTERAGENCY CONSULTATIONS

The interagency consultative procedure is an important element in the Department's determination as to what shall be controlled and the extent exports shall be limited.

Section 5(A) of the Export Administration Act requires us to seek information and advice on these subjects from the several executive departments and agencies concerned with aspects of our domestic and foreign policies and operations having an important bearing on exports. Accordingly, the department has an Advisory Committee for Export Policy on which the interested agencies are represented at an Assistant Secretary level. The agencies include the Departments of Agriculture, Commerce, Defense, Interior, State, Transportation, and Treasury, the Atomic Energy Commission and the National Aeronautics and Space Administration. In addition, there is an observer from the Central Intelligence Agency. There is also at the senior staff level, an Operating Committee of the Advisory group which meets weekly to discuss export control policy problems and significant individual transactions. All applications to export commodities and technical data to the communist countries are processed by the Department in accordance with procedures established in consultation with the advisory agencies represented on the Advisory Committee for Export Policy.

Under these procedures, certain applications are processed by the Department's Office of Export Administration (OEA) without consultation with its advisory agencies; some are processed after informal consultation with one or more of the advisory agencies, and the remainder are processed only after formal consultation with the agencies.

To the extent possible, the Department seeks to formulate specific guidelines that set forth criteria for the approval or denial of applications. Proposals for such guidelines are referred to the Operating Committee of the Advisory Committee for Export Policy, and if all interested agencies agree that applications for a specific commodity or grouping of commodities may be approved or denied without further consultation with the agencies, "a delegation of authority" to OEA is issued. Examples of commodities in this category include certain field effect transistors, electronic capacitors, frequency synthesizers and coaxial alternators. This delegation sets forth parameters within which action may be taken.

However, an application to export a commodity covered by such a delegation is not routinely handled. The application first is analyzed by a licensing officer who, from a technical standpoint, determines if the commodity or data proposed for export does fall within the delegation of authority, and is appropriate for the intended end use.

Based on this analysis, a licensing recommendation is made, these technical judgments and the recommendations are then reviewed by other officers for consistency with established policy and for identification of any particular features or problems that would necessitate interagency review. Applications approved or denied in accordance with the delegation of authority receive a final screening by a senior official in OEA just prior to mailing the license or denial notice to the applicant.

In the recent past, certain of the agencies that advise the Department, particularly the Department of Defense, have been reluctant to concur in the issuance of guidelines that would permit the approval of applications under a delegation of authority. While

they agree that formal review in the interagency structure is not necessary, they prefer to be notified of applications that are received for specific commodities and to be given an opportunity either to concur in the specific transaction or to request formal interagency review. Examples of commodities in this category include certain types of germanium and silicon transistors, certain lasers, certain types of video tape recorders, and certain types of computers and related equipment. A memorandum is sent to the agency that has requested consultation, and the application is not processed for approval until that agency concurs in the proposed action. These applications also are screened by a senior official in OEA prior to mailing of the license.

Applications that may not be processed under either the delegation of authority or the informal consultation procedures are documented for formal consideration by the Operating Committee of the Advisory Committee for Export Policy. The document describes the proposed transaction, identifies the intrinsic use potential, including any possible military use, and the end use pattern, sets forth the policy aspects and recommends a course of action. There is thorough discussion of the transaction at a meeting attended by senior staff representatives of those agencies that have an interest in the proposed transaction.

The Departments of Defense and State and the Atomic Energy Commission are invariably represented. There is also an observer from the Central Intelligence Agency. Other agencies, such as NASA and the Departments of Transportation and Interior, attend when matters of interest to them are on the agenda. After hearing the advice of the various agencies, the chairman of the Operating Committee recommends a course of action. If all interested agencies concur in this recommendation, it is forwarded to the Director of the Office of Export Administration for his decision or, in some instances, for referral to the Director of the Bureau of East-West Trade for decision. If any agency objects to the proposed course of action, it is given full opportunity to appeal to a higher level.

I have continued the policy of several of my predecessors not to approve any transaction so long as any agency has indicated an intention to appeal a recommended course of action. In some instances, an agency will object, but indicate that, because of the marginal nature of the issue, the case does not warrant an appeal. The chairman's recommendation, then, goes forward to the Director, OEA, as mentioned above. When an agency objects and appeals a recommendation, the issue is carried progressively higher until the disagreement is resolved. In this process Departmental or agency heads and, if necessary, the White House may be called upon to address the problem.

LICENSING CONSIDERATIONS

Involved in the decision to approve or reject an application for a communist destination are such considerations as:

A. What is the normal use in the U.S. and elsewhere in the Free World?

B. Is the item designed for military purposes? Is the intrinsic nature of the commodity or data such as to make it of significant use to the military? Is it currently used importantly by the military establishments in the West? In the country for which it is destined?

C. If the item has both military and civilian uses, is the intended end-use peaceful in nature?

D. Is the prospective foreign end-user engaged in peaceful or military-oriented work?

E. Does the item incorporate advanced or unique technology of strategic significance that could be extracted?

F. Is there a shortage of the item in the area of destination that affects the military potential?

G. Are comparable commodiies or data available to the country of destination outside the U.S.? If COCOM controlled, are they available outside the COCOM countries?

CONSULTATION WITH INDUSTRY

In developing information that will permit us to make the proper decision, the Department consults extensively with industry. There currently are seven government-industry technical advisory committees, established pursuant to the 1972 amendments to the Export Administration Act. In addition, individual firms are consulted on technical matters and foreign availability of commodities under licensing control.

The formal technical advisory committees meet regularly and have been cleared for access to security classified information so that they can be of maximum use to the Department.

The industry members were chosen from firms, large and small, affected by our controls. The industry members serve as individuals, not as company representatives. They were chosen for their technical knowledge and bring to the committees their own expertise. Also, by their charters, the committees serve strictly in an advisory capacity to the Department. Their reports receive the most serious consideration, but the final judgment on the issues is reserved for the Government, as it should be.

APPLICATION PROCESSING TIME

One other aspect of the export control program deserves mention. I believe very few producers of goods under control for national security reasons will dispute the statement that there are potential strategic uses for these items. This means that applications to export such commodities to Communist destinations are scrutinized very carefully, as is evident from my remarks so far. This often is time consuming, and exporters frequently become understandably impatient.

We are very sensitive to the fact that a prolonged delay in reaching a licensing decision can be a serious competitive disadvantage to a U.S. exporter. Although a large proportion, roughly 60 percent, of applications involving exports to Communist destinations are processed in 15 working days, according to a recent survey, the remainder take considerably longer.

These are, for the most part, transactions that involve high technology items and present particular policy problems. Detente has increased the interest of U.S. firms in selling such items to the Communist countries and this in turn has resulted in a larger volume of cases in this commodity area.

We are addressing this problem of excessive processing time. Through the application of additional resources, more extensive use of automatic data processing, and procedural innovations, we hope to avoid the lengthy delays that plague the export community.

We are also very conscious of the need for us to be responsive to an applicant's enquiry as to the status of his case and of the considerations that may lead to denial of a license. Consistent with considerations of national security, we try to keep applicants informed and otherwise interact with them.

Mr. Chairman, I would like in concluding my presentation to draw to your attention the table we are submitting for the record as part of this testimony. This table graphically shows the outcome of our efforts in going through the above consultative procedures for the past two and one-half years.

The table deals with the disposition of some 3,000 applications for the export of items on the controlled commodity list to a Communist country destination. You can see that of those 3,000 cases, the Department of Defense objected to the issuance of a license in 13 cases but did not feel sufficiently strong about its objection to escalate the matter to higher echelons. Inasmuch as in each case the issue was considered a marginal one by the agency objecting but not appealing, the Department of Commerce, after taking other agency views into account, decided to approve the license.

The table further shows that a strong objection to approval was raised in four cases and that the objecting agency indicated it would appeal a contrary action to higher levels. In three of those cases the objection was sustained and in only one case was it overridden at the White House level. The totals of refusals to issue licenses, which we call denials, are as shown for the respective years. I believe these figures give some idea of how the mechanism we have long had in operation has worked to safeguard the national interests of the United States in the strategic export field.

Mr. Chairman, that concludes my presentation. I am ready to try to answer any questions the members of the Subcommittee may have.

Number of U.S. export license transactions on which DOD was consulted and objected to approval, with disposition thereof

[June 1972–June 11, 1974]

	Commerce
Total cases	3,000
Objected but not appealed	13
Overriden	13
Objected and appealed	4
Overridden	4
Sustained	3
Total no. of cases denied (All agencies agreed):	
1972	163
1973	105
1974 (as of June 30)	82

There are ten Commerce cases pending on which DOD has objected and appealed, respecting which there has been no decision.

Mr. PACKWOOD. Finally, Mr. President, I must express my concern with regard to provisions in this bill calling for the Secretary of Commerce to monitor and issue reports on both contracts for and anticipated exports of nonagricultural commodities in tight supply, and further requiring the Secretary to publish certain analyses with respect to commodities.

While I fully agree that there is a need to maintain a diligent watch on our domestic supply situation, and thus effectuate timely and accurate governmental decisions, I fear that the net result of these provisions will be to further confuse an already muddled domestic economic picture.

I will first address myself to the requirement for monitoring and publishing data on contract for exports and anticipated exports. The Commerce Department monitored contracts for exports of agricultural products and ferrous scrap last summer, and found that such contracts had little or no bearing on what was, in fact, actually exported. Thus, forecasts of anticipated exports, not to mention policy decisions based on such data, will likely be misleading, and would trigger considerable speculation in domestic markets that could, in turn, lead to the imposition of export controls which would have been unnecessary otherwise. In short, such data could well result in the type of decisionmaking

characterized by the Government's handling of last year's soybean embargo.

I have even greater reservations about requiring the Secretary to publish certain analyses, particularly those on the probable duration of shortages, and on worldwide supplies of commodities being monitored under this bill's earlier provisions. Our Government has limited access to foreign supply/demand data, and any published analysis purporting to be based on such data would be little better than nonsense.

If there is anything that our domestic supply situation needs less than additional uninformed economic forecasting, it does not readily come to mind.

The committee has placed language in its report stating that the Secretary need not publish an analysis which "would have serious adverse consequences due to highly volatile markets for the material involved", and stresses that the Secretary need not disclose information as to the timing or duration of export controls. However, it is difficult to imagine a situation, in which a shortage was either anticipated or its duration predicted, that would not lead directly to speculation as to the imposition or duration of controls themselves, and thus bring about the very situation to which the committee has addressed its concern. I am reasonably certain that the market will react to such information by, in the first case, accelerating exports in anticipation of later restrictions, and in the latter, by hoarding inventories in anticipation of the lifting of controls, thus exacerbating, or prolonging, any short supply situation.

Finally, I submit that we are asking the Department of Commerce to peer into a crystal ball which neither they nor any other Government agency, and I include the Congress, possess. I think the record of the last few months clearly shows that economists and assorted other statistical sorcerers have proven remarkably incapable of forecasting what may happen in the future. To expect anything different from Government forecasts just because they have the official seal of approval is to mislead ourselves and the American people.

I want as much as anyone to see the Department of Commerce exercise its export control authority based on the best information available, and I am convinced that the committee is moving in the right direction in asking the Secretary to perform analyses in the short supply area. I am just as convinced, however, that publishing, first, analyses of the probable duration of shortages, and second, "anticipated exports"—which when coupled with domestic supply and demand is tantamount to predicting domestic shortages—would serve to prolong, or even create, such a shortage. This would not only fail to serve the best interests of our Nation's economy, but would contravene the intent of the Congress when we placed the short supply authority in this act.

Mr. President, I ask unanimous consent that a letter from the American Farm Bureau Federation be printed at this point in the RECORD of our debate of this export control legislation. This letter outlines the views of AFBA—views to which I subscribe.

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

AMERICAN FARM BUREAU FEDERATION,
JULY 30, 1974.

Hon. ROBERT W. PACKWOOD,
U.S. Senate,
Washington, D.C.

DEAR SENATOR PACKWOOD: S. 3792, a bill to amend and extend the Export Administration Act of 1969, is likely to reach the floor of the Senate later this week. This bill, if enacted, would increase the authority of the Executive Branch to impose export controls on agricultural, and other commodities.

On January 17, 1974, the elected voting delegates of the member State Farm Bureaus adopted the following policy:

"We encourage action at both domestic and international levels to ensure farmers the right to offer their produce for sale on world markets. We oppose any proposal to limit or control exports of U.S. agricultural commodities."

We represent 23 million member families and oppose agricultural export controls for the following reasons:

(1) Farmers and nonfarmers alike benefited from an upsurge in agricultural exports to an all-time high of over $20 billion during the 1973–74 fiscal year. Increased output—made possible by export sales—means lower average production costs on farms. This leads to higher incomes for farmers and lower food costs for consumers. A high level of agricultural exports has a favorable effect not only on the net incomes of the producers of the commodities exported but also on the incomes of producers of other farm commodities and the incomes of workers employed in transportation and other export-related industries. The dollars earned by commercial exports are critically important to our country's international balance of payments. Further increases in agricultural exports will be needed in the years ahead to pay for expanding imports of petroleum and other essential raw materials.

(2) Export controls, like price ceilings, deal with the *symptoms* of inflation and divert attention from the need for a direct attack on our economic problems through effective action to reduce excessive government spending.

(3) Export controls involve the compulsory allocation of supplies by government. They cannot do this job as well as market prices. Such controls also are an instrument for politicizing foreign trade policies. They can lead to the allocation of exports for diplomatic and strategic objectives not related to economic efficiency. Politicized trade policies make it impossible for our country and others to gain the full benefits inherent in mutually advantageous trade conducted with a minimum of restrictions.

(4) The imposition of export controls on certain agricultural commodities in 1973 was a disastrous mistake. The long-run result will be a loss of some hard-won markets; many foreign buyers confronted by broken sales contracts have lost faith in the dependability of the U.S. as a source of supplies. As a result, the effectiveness of U.S. representatives in international trade negotiations has been reduced, and it will be harder to persuade foreign countries to lower their barriers to imports of our commodities.

We also oppose export controls on fertilizers, a nonagricultural commodity but one of great concern to American farmers and ranchers. Government price controls were the primary cause of recent shortages of fertilizers. They encouraged exports and reduced imports of fertilizer materials. Export controls on fertilizers would be undesirable because they would lead to foreign retaliation against our agricultural exports and reduce our fertilizer imports.

The Export Administration Act of 1969 should be extended in order to authorize controls over exports of certain strategic materials and technology related to the security of the United States. However, we urge you (1) to vote for revision of the Export Administration Act of 1969 to make it abundantly clear that this Act shall not provide authority for imposing export controls on agricultural commodities and (2) to vote against all proposals to impose export controls on fertilizers.

Your support of our position on these issues will be of benefit to urban consumers as well as farmers and ranchers and will be much appreciated.

Sincerely,

JOHN C. DATT,
Director, Congressional Relations.

Mr. BUCKLEY. Mr. President, the renewal of the Export Administration Act and amendments we are voting on today is flawed by a misplaced effort to deal with a pressing foreign trade problem; that of competition for resources from other nations. Attempting to deal with the problem of shortages through export controls rather than the marketplace is a means which can only exacerbate the problem.

For the past three decades the Congress has passed legislation which has had the effect of reducing the barriers to trade which were erected during the 1930's and 1940's. The result has been an enormous increase in international commerce, and an unprecedented increase in international prosperity.

This bill represents a step backward in that process which could act to diminish U.S. prosperity by inviting retaliation by other nations who may feel uncomfortable when the U.S. consumer is competing for resources within his own market.

The bill, as amended, would make it easier to impose controls on exports by eliminating the condition that there be an abnormal foreign demand for the goods in question, which I believe to be an appropriate condition. As we have already seen to our detriment, in the case of wage and price controls, a power in existence is a power which would be used. The vast armies of special interests would guarantee that such power would be exercised.

Moreover, the bill would permit the imposition of export fees; a step which the committee itself admits is of doubtful constitutionality given the specific language of article I, section 9, clause 5, of the Constitution prohibiting duties on exports from any state.

The remedy for shortages is not controls—we have seen the costly consequences of controls in 3½ years of experience with wage and price controls. The only answer which works in the long run is free markets; free markets will provide the incentive to increase supplies thereby providing goods and services to all who want them at the lowest price possible. Given free markets, the United States is in a better position to compete in international markets than most other nations; only the intervention of controls such as proposed in this bill could diminish our natural competitive advantage.

Mr. BAYH. Mr. President——

The PRESIDING OFFICER. The Senator from Indiana.

Mr. STEVENSON. Mr. President, I yield to the Senator from Indiana.

Mr. BAYH. Mr. President, at this time I would like to call up the amendments that I have discussed with my distinguished colleague from Illinois.

Mr. STEVENSON. 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. BAYH. 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. BAYH. Mr. President, I call up amendment No. 1609.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

SEC. . Section 28(u) of the Mineral Leasing Act of 1920 (30 U.S.C. 185) is amended by inserting immediately after "quantity and quality of petroleum available to the United States" the following: "or result, directly or indirectly, in any increase in the price thereof".

Mr. BAYH. Mr. President, this amendment will close an unintended and potentially very expensive loophole in the legislation enacted last year authorizing construction of the trans-Alaska oil pipeline.

At the time that measure was before us, the Senate rejected a proposal to ban the exportation of oil from Alaska. Instead, the Senate adopted a provision, which became section 28(u) of the Mineral Leasing Act, which permits the exportation of U.S. oil from Alaska under certain circumstances so long as such exports do not reduce the total supply of oil available in the United States.

This provision will permit oil swapping, whereby a certain amount of oil from Alaska can go to Japan or other foreign countries if an equal amount of compensating oil is imported into the United States. This compensating oil would probably come from Venezuela and the Middle East, and likely be delivered via gulf coast and Atlantic ports.

Such swapping of oil is deemed necessary because from the time the Alaskan pipeline goes into operation—presumably 1979—until well into the 1980's the west coast will not be able to utilize the pipeline's 2-million-barrel-a-day capacity. Since there is no way the oil can be shipped eastward across the Rocky Mountains, it will have to be exported—something that those of us who preferred construction of the trans-Canadian oil pipeline pointed out during last year's debate.

In permitting this oil swapping, the Congress did require a Presidential finding that it was in the national interest and that it would not diminish the total quantity and quality of oil available to the United States.

However, these criteria left open a serious price loophole that could cost American consumers and industry up to $2 billion a year. It would work like this:

First, the major oil companies would sell up to a million barrels a day of our oil from Alaska, as much as 50 percent of the pipeline's capacity, to Japan and other foreign countries at the international price of oil. Under the present two-tier oil price system the international price is greater than the domestic price, a disparity that is likely to grow in the years between now and when Alaskan oil begins to flow.

Second, to make certain that such exportation of U.S. oil does not diminish the total quantity of oil available in the United States—as required by the statute—the same major oil companies would step up their imports of oil from Venezuela and the Middle East, charging U.S. consumers the same high international price for this compensating oil.

What this does, Mr. President, is to enable these oil companies to realize the higher international price—higher by as much as $5 a barrel—for U.S. oil from Alaska than they would receive if that same oil were sold within the United States. Since under such an operation the compensating imported oil would be billed at the prevailing world price, the multinational oil giants could realize an additional net gain of $5 a barrel on as much as a million barrels a day. That is $5 million a day, close to $2 billion a year in added energy cost for American consumers and industry.

My amendment would prevent such oil company mischief.

Specifically, this amendment to section 28(u) of the Mineral Leasing Act—which is that section of the pipeline legislation establishing standards for oil exports—adds a new criterion which must be met before U.S. oil could be exported from Alaska.

The amendment provides that such exports not only not diminish the total quantity and quality of oil available in the United States, but that such exports also not result, directly or indirectly, in any increase in the price of oil in the United States.

The effect of this standard, Mr. President, would be that American consumers and industry would pay no more for the imported oil brought to the United States to compensate for Alaskan oil sold abroad than those same consumers and industry would pay were the Alaska oil sold directly in the United States.

Japan, or any other country receiving U.S. oil, would pay the higher international price for the oil they received, but our citizens would pay the domestic price for the equivalent amount of oil imported to make up for the loss of oil sold abroad.

This will prevent the oil companies from escaping whatever domestic price controls might be in effect at the time, and foreclose the incentive to export more oil than necessary to exploit the price difference between U.S. and foreign oil.

Let me say, Mr. President, I am very much aware of the argument made against this amendment, that oil companies swap oil for convenience in marketing and to save transportation expenses all the time. And, the argument goes on, when this is done the oil is priced just as my amendment would require—with each country paying what they would for the crude oil if such switching did not take place. So, the argument concludes, this amendment is really not necessary, it would work this way anyhow.

In response, Mr. President, I must say that I recognize the realities of present international policy in oil marketing. But I also recognize a loophole when I see one. And I just refuse, as strongly as I know how, to leave the fate of consumers and industry in my State of Indiana, and across the country, in the hands of the multinational oil companies.

I refuse, Mr. President to rely on the verbal assurance of some oil company executive that the pricing policy which my amendment mandates would prevail in any event. I insist, instead, on writing into law the assurance which my constituents and all Americans deserve; the assurance that they will not pay the higher cost of oil company shenanigans at some future date.

And to those who oppose my amendment as being unnecessary I say, if the purpose of this amendment will be realized anyhow, why do you oppose it? Why do you object to codifying what you say is normal pricing policy in the international marketing of oil?

One can only conclude, Mr. President, that opposition to my amendment is tacit admission that the problem which I foresee down the road is very real. If the oil companies do not intend to exploit this loophole, then there is no reason for them to oppose this amendment to close that loophole.

On the other hand, if those oil companies greedily eyed this loophole as a means to fatten their already bloated profits, then their opposition makes sense. That, in turn, makes the best case for adoption of this amendment.

Mr. President, my colleagues will recall a rather heated debate which transpired on this floor not too long ago when we were discussing the pros and cons of the Alaskan pipeline. The Senator from Indiana opposed the Alaskan pipeline, and suggested what the Senator from Minnesota and several others suggested, that we would be better served as a Nation to provide for the distribution of the Alaskan oil through Canada into the middle part of our country.

There were two concerns that some of us in the Midwest had: One, that this pipeline was primarily designed for west coast distribution of the oil, and that the rest of the country would not benefit from it; secondly, that the west coast, at least during the first 10 years of the pipeline's production, would not be able to consume all of the oil that was coming through the pipeline. Thus, since the oil goes from north Alaska to south Alaska and then into the supertankers, it would be sold to Japan or elsewhere around the

world and we would be losing this valuable resource to foreign markets.

Subsequent events have proven that both of these concerns have significant merit. But the pipeline is still being built, so that battle has been lost. It seems to me that there are some steps we can take to prevent one other thing from happening, which I think would be most unfortunate for consumers.

The oil companies respond to our concern that this Alaskan oil will be sold to Japan by saying, "Well, what we are really going to do is switch Alaskan oil for other oil in the Mideast or Venezuela and make that available to the east coast and the Midwest."

To meet this concern, we wrote into the bill—and I believe Senator JACKSON and Senator FANNIN agreed on the language—that this kind of switching could not take place if there was a decrease in oil, in quantity and quality, made available to the American consumer.

This did not deal with the fact that in order to keep even with what we need because we have an increase in demand, we are going to have to improve ever-increasing amounts, and thus the switching agreement will be possible. With the disparity which exists in the price between domestic oil and foreign oil, what we are going to have happen is the following: The Alaskan oil, with a domestic price of somewhere between $5 and $10, probably an average of $7, will be sold to Japan, probably at the international price of close to $11 or $12. Then that will be exchanged for a similar quantity of oil from Saudi Arabia or Venezuela and sold back into the country at the international price of $11 or $12. That $5 a barrel, multiplied by the total amount available, is going to cost the consumers of this country about $2 billion a year.

What my amendment says, very simply, is this: All right, go ahead and switch Alaskan oil for foreign crude, if you wish; but if you do so, we have to guarantee that the foreign crude that is the product of the switch is sold into this country at the same price that the domestic oil is pegged at, so that we are not losing that $5 a barrel and we are not going to be socking our consumers an additional $2 billion a year.

I have discussed this amendment with the distinguished Senator from Washington, who has been called to duty elsewhere. It is my understanding that he has no objection to it. Really, this is the thrust of what we tried to do earlier in the amendment he proposed. I think we will all agree that there is a loophole there and that this should close it.

Mr. STEVENSON. Mr. President, I have discussed this amendment with the Senator from Indiana, and I commend him for submitting it.

Without the adoption of this amendment, it is quite possible, as he points out, that oil could be accumulated in California in surplus quantities, and then exported to Japan, with large parts of the United States, particularly the Midwest and the Northeast, then dependent on undependable and more expensive foreign sources of oil, principally in the Middle East. This amendment would assure that all parts of the country, including the Midwest and the Northeast, would benefit from the Alaskan oil, not just the Japanese or some other foreign country.

So I think this is a fine amendment. So far as I am concerned, I am prepared to accept the amendment.

Mr. BAYH. Mr. President, if the Senator will yield, I might add just one word of appreciation to the distinguished Senator from Illinois, not only for his cooperation with respect to this amendment, but also for his cooperation and support in our efforts to get the Alaskan oil distributed into the middle part of the country, in the first place, and for his continued effort now to see that we are able to proceed with the distribution of the natural gas supply as we have originally been promised, and that it is brought into the central part of the country.

Mr. STEVENSON. That was a concern we had in the debate about the oil for the pipeline. The concern that the Senator from Indiana and I and others expressed was that once the decision was made to transport the oil across Alaska, the next argument would be made that the same route should be used to transport the gas. The Midwest and the Northeast, threatened by a shortage of energy, would end up without either the oil or the gas.

The Senator led that fight, and the decision ultimately was made to bring the oil down across Alaska. Now he is continuing the fight to make sure that in the Northeast and in the Midwest, severely threatened as they are by both shortages and high prices, we get our fair share. I think he deserves the gratitude of the Senate, and certainly of the Members from those large parts of the country who are fighting that fight.

Mr. President, I have discussed this matter with the Senator from Oregon.

Mr. FANNIN. Mr. President, if the Senator will yield, this has just come to my attention. Since it does involve legislation that has come under the jurisdiction of the Committee on Interior and Insular Affairs, I wonder whether the Senator did clear this matter with Senator JACKSON, the chairman of that committee.

Mr. BAYH. I mentioned earlier that I had discussed this matter with the distinguished Senator from Washington and that he does support it.

Mr. FANNIN. I thank the distinguished Senator from Indiana.

From what I observe, I believe that I, too, would support it. But I would appreciate having 5 or 10 minutes to check, to see exactly what effect it would have. I would like to check with counsel on it. It would be very helpful.

Mr. BAYH. I have no objection. In fact, if it is all right with the Senator from Illinois, I will call up my other amendment, and we can dispose of it while the Senator puts his "good housekeeping" stamp on this amendment.

Mr. FANNIN. I thank the Senator.

AMENDMENT NO. 1610

Mr. BAYH. Mr. President, I ask unanimous consent that my amendment No. 1609 be temporarily laid aside and that I may call up at this time amendment No. 1610.

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

The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

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

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment is as follows:

At the end of the bill, insert the following new section:

SEC. . (a) The Comptroller General of the United States shall conduct a continuous review of the effectiveness of procedures implemented by the Secretary of Commerce pursuant to the provisions of section 4 of the Export Administration Act of 1969. In carrying out such review the Comptroller General shall consider, among other relevant factors—

(1) current and projected domestic shortages of key commodities, export levels of these commodities, the impact on domestic prices and employment of such shortages, and anticipated domestic and foreign demand for such commodities; and

(2) the need for additional export controls of commodities in short supply, the time and manner in which such controls should be implemented, and the recommended duration of any such controls.

(b)(1) The Comptroller General shall transmit to the Congress regular reports setting forth the results of the review required by subsection (a).

(2) In addition, the Comptroller General shall transmit without delay to the Congress a special report whenever he determines that there is a domestic shortage of any commodity which, together with exports of that commodity, threatens domestic price stability of that commodity and/or employment related to that commodity. Such report shall contain the Comptroller General's estimate of the extent of the domestic shortage of that commodity, the current and projected export levels, and the projected domestic price and employment impact at projected export levels. The Comptroller General shall include such recommendations for legislative or administrative action as he deems appropriate.

(c) Notwithstanding the provisions of any other law, in carrying out such functions, the Comptroller General is authorized to request, and any department, agency or instrumentality of the Federal Government is directed to furnish, such information as is necessary to carry out the functions provided for under this section, including estimates of the quantity of any commodity necessary for (1) domestic consumption, (2) exports, and (3) reasonable carryover, including disaster relief assistance or other emergency situations.

Mr. BAYH. Mr. President, this amendment is designed to enable the Congress to deal more effectively with the soaring inflation that is clearly the most significant economic problem facing us today.

One clear and ever present threat to domestic price stability is the uncontrolled exportation of commodities in short supply. Over the last year, domestic prices for such short supply commodities as scrap iron and steel, petrochemicals, and timber have skyrocketed

due, in part, to the export levels of these commodities. The price of wheat, once an example of American overabundance, has still not stabilized in the continuing wake of the "great grain robbery"—the massive $2 billion sale of U.S. wheat and other grains to the Soviet Union.

Even a cursory examination of the percentage increases for exports of short supply or near short supply commodities underlines the gravity of the situation we are facing. From May 1973 to May 1974, exports of wheat increased by 142 percent, rice by 82 percent, ferrous scrap by 70 percent, fertilizer by 45 percent, and copper by 66 percent.

Not only has the sharp rise in the level of exports of short supply commodities worsened our spiralling domestic inflation, this increase has also had negative effects on employment related to such short supply commodities. The Cost of Living Council estimated that a 15 percent cutback in domestic petrochemical supply would result in 1.6 to 1.8 million lost jobs—raising the national unemployment rate by 1.1 percent.

The administration's policy toward controlling the expanding level of exports for short supply commodities has been schizophrenic at best. The administration stance has varied from refusing to take any corrective action—such as was the case during the last year with petrochemicals—to the disastrous implementation of across the board export controls—as was the case with the now infamous soybean embargo of June 1973.

Let me take a moment to examine in more detail, the administration policy with regard to a few key short supply commodities.

WHEAT

It is indeed ironic to think of wheat as a commodity that is even potentially in short supply. For years, wheat provided the very symbol of American overabundance. Yet, within a period of 2 years, wheat and related grains have reached the potential of such drastic shortages that the American consumer has had to pay an increase of more than a third, from $.26 to $.35 for a loaf of bread.

What made this disastrous situation possible, of course, was the administration's $2 billion sale of wheat and related grains to the Soviet Union in 1972. Personally, I do not believe in a policy that is so shortsighted as to sell American wheat to the Soviet Union for $1.63 a bushel, and then to find within 2 years time, we are faced with the possibility of a serious wheat shortage here at home, followed by a Russian offer to sell us back our own wheat at $4 a bushel—nearly two and one-half times the original price. Compounding this economic disaster was a Government subsidy program—paid for by the American taxpayer—which compensated the large grain dealers for the difference between the $1.63 paid by the Russians, and the current market price—a difference which ranged up to three times the amount paid by the Russians.

Admittedly, when the Russian wheat deal was negotiated, American wheat was not in short supply. Indeed, the opposite was true. The point here, however, is that the administration's monitoring of the actual amount of wheat being sold to the Soviet Union was so lax that by the time the administration's policy had been in effect for 2 months, the price of wheat on the domestic market had doubled. That spells inflation.

SCRAP IRON AND STEEL

Let us turn for a moment to scrap iron and steel. In late January of 1973, following 4 months of continually rising scrap prices, representatives of the steel and foundry industries met with officials of the Department of Commerce. The industry representatives stated that the steel and foundry industries would need a record 41.5 million tons of purchased ferrous scrap in 1973.

In the meantime, leaders of the scrap industry were openly projecting scrap exports for the first half of 1973 at an annual level of 12 million tons. Thus an unprecedented 53.5 million tons of scrap steel was deemed necessary to satisfy both domestic and foreign markets; it was clear there was not enough scrap to meet this total demand.

Requests for limitations on ferrous scrap exports fell on deaf ears. Prices rose accordingly, and on May 8, 1973, more than 3 months after the steel and foundry industries warnings, Secretary Dent announced that he was "extremely concerned" about price increases for ferrous scrap. Stating that the Department lacked "up-to-date information" the Secretary announced that a reporting procedure was being instituted. Under this program, exporters were required to report immediately to Commerce all orders accepted for 500 tons or more.

Finally, on July 2, 1973, Secretary Dent announced:

I have determined that the criteria set forth in the Export Administration Act have been met by this commodity.

Whereupon the administration established a month-by-month licensing of scrap exports. The quota control system instituted last July remains in effect today, with a global quota of 2.1 million tons per quarter. Industry spokesmen feel this limitation remains much too high to effectuate any real control.

The effect of this limited action on the price of domestic scrap has been disastrous. By April 1974, scrap was selling at $170 per ton—more than triple the prevailing price at the close of 1972. That spells inflation.

PETROCHEMICALS

The drastic increase in the level of exports of plastic resins and other petrochemical feedstocks is something that I can speak to from a position of familiarity. Last December and then again in February of this year, I became so concerned with the domestic shortage of petrochemicals, I wrote to Secretary Dent asking him to use the authority granted him under the Export Administration Act to invoke export limitations on petrochemicals.

By mid-March, with nearly 3 months gone since my original contact with the Department of Commerce and the supply shortage for small plastic processors deteriorating, I called upon the General Accounting Office to investigate the economic consequences of a plastic resin and petrochemical shortage as well as the administration's response to this crisis.

We now have figures which show the administration's response to the petrochemical shortage—limited to the abrupt termination of domestic price controls which succeeded in driving the wholesale price index for 10 plastic resins up 27.6 percent in 2 months. Sample increases in that same 2-month period included a 35.7 percent rise in the wholesale price of polyvinyl chloride resin and a 49.4 percent rise for general purpose polystyrene resin. The administration's policy did nothing to increase the domestic supply of plastic resin and other petrochemical feedstocks, it simply pushed the domestic prices for these commodities upward.

That spells inflation.

SOYBEANS

While the Administration responded in only a halfhearted fashion to export controls of scrap iron and steel and not at all to petrochemical exports, it responded to the shortage of soybeans from the other extreme.

After 2 years of ever-increasing domestic prices and expanding exports, in June of 1973, the Administration clamped down an embargo on all U.S. exports of soybeans. This ill-conceived move was disastrous both domestically and in terms of our foreign relations with Japan—dependent upon the United States for 92 percent of her soybean imports.

Once again, we see Administration policy based on the absence of pertinent, adequate, or timely information. Again, as with the Russian wheat deal, we find the Administration reacting in a dumbfounded manner to its blunders. In the case of soybeans, the Administration tried to recoup its losses by removing the ill-conceived embargo after only 5 days duration. Surely we owe it to the American farmer to see that we have an orderly market mechanism which can respond based on factual and timely information so as to avoid such disasters in the future. Our farmers need foreign markets; but they also need policies which will avert severe price fluctuations.

All these examples—wheat, scrap steel, petrochemicals, and soybeans—point to the need for an accurate information system upon which Congress may base its assessment of Administration actions regarding export controls of short-supply commodities. Personally, I do not believe in the use of export controls except in the most extreme and dire instances. But when such controls do prove necessary for the protection of our domestic economy, then we must have in effect a system which provides us with accurate, pertinent, and timely information upon which to base our decisions. Over the last year, the American consumer is having to pay for the 75-percent rise in the price of white bread flour; American automobile manufacturers are having to pay 70 percent more for scrap steel; and American farmers are having to pay 45 percent more for petrochemical fertilizers. Clearly the absence of a coherent policy with regard to the exportation of short-sup-

ply commodities and their effect on domestic price stability has caused us to lose ground in our war with inflation.

My distinguished colleague, Mr. STEVENSON, has made a valuable contribution in addressing this problem through the Export Administration amendments in requiring the Department of Commerce to institute a more formalized monitoring system for exports; nevertheless, I feel that the legislative branch of our Government has an equal obligation to remain informed in an area where Administration inaction has fostered inflation. Only with adequate, independent data can Congress reliably assess the performance at the Commerce Department, and be able to take action on its own when that is necessary.

Therefore, Mr. President, I offer this amendment to require the Comptroller General to begin a continuous monitoring and assessment of all short supply or potentially short supply commodities, the domestic price of such commodities, and the export level of these commodities.

Under my amendment, the Comptroller General is required to evaluate such factors as the current and projected domestic shortage of key commodities, the status of both domestic price and employment factors in industries related to such commodities, and the anticipated domestic and foreign demand for such commodities.

In addition, GAO is called upon to assess the need for additional export controls of any commodity in short supply, the time and manner in which such controls should be implemented, and the recommended duration of such controls.

Also, GAO is required to issue regular reports to the Congress summarizing these findings. We can expect such reports to be at least once or twice annually. In addition to the regular reports, the Comptroller General is directed to make special reports to the Congress at any time he feels that the level of exports of a commodity in short supply so threatens domestic price or employment stability that immediate congressional action is warranted.

My amendment establishes an information gathering system for the Congress that will enable us to keep abreast of necessary and relevant economic data. The Temporary Commission on Supplies and Shortages proposed by the distinguished majority leader (Mr. MANSFIELD) embodied a similar concept—the necessity of gathering information which encompassed future predictions on domestic shortages. My amendment would make such a concept a permanent fixture. With the continuous monitoring of prices and exports of short supply commodities, GAO will be able to keep the Congress in the posture of being able to act—act, Mr. President, not react—in an informed and rational basis to any serious threat to domestic price stability or employment.

I am pleased to say that my amendment has the support of the very able Comptroller General, Mr. Staats, with whom I discussed this measure, as well as numerous groups who speak for those very industries so threatened by current policies. My staff has received the verbal backing of the American Bakers Association, the Organization of Plastics Processors, and the Cast Iron Pipe Research Association.

It is important to remember that my amendment does not necessarily require future congressional action with regard to export controls. It in no way interferes with the authority presently exercised by those committees currently overseeing our export policies. What it does do, is provide a mechanism which fosters informed, and timely decisions, made in a systematic as opposed to an ad hoc or crisis related manner. For too long, Mr. President, the Congress has only been able to react to such seriously damaging inflationary crises. It is now the time, some would say way past the time, when Congress should begin to develop the capacity to act not react. The information gathering process created under my amendment would allow Congress to be able to perform in just this manner.

Mr. President, I do not know of any problem that concerns more people in the country today than the problem of inflation. One of our basic problems is that in the way we have dealt with the production of our resources here and the distribution, particularly the export of resources, we have followed a policy which, unfortunately, has ofttimes given more attention to the profit structure of certain large corporations than to the concerns for the people. More often, we have followed a policy which benefits the consumers in foreign lands rather than the consumers in our country.

I want to salute the distinguished Senator from Illinois, the distinguished Senator from Oregon, and others who have worked on this bill. I think it makes a significant contribution in assessing just where we are so far as the possibility of the exportation of sorely limited supplies is concerned.

This amendent would provide an independent source of information, a review of information, which is provided by the Commerce Department, and would make this information available to us in Congress from the General Accounting Office.

I have discussed this matter at some length with the Comptroller General. He has no objection to it. We have not established a separate independent office within GAO, nor have we specifically mandated that the report should be made quarterly. But we do anticipate that the Comptroller General will use the necessary resources to keep us on top of just exactly what is happening in areas such as scrap metal, certain kinds of agricultural products, the petrochemical industry, and so forth, and then will report back to us, so that we can have an independent source of information and be able to doublecheck on what the Commerce Department is doing.

Mr. STEVENSON. Mr. President, there is one point about this amendment that should be clarified.

As I understand it, the intention of the amendment is not to create another monitoring agency with the power to require basic data from businesses, from farm groups, from exporters, and the like. The proposal, as I understand it, is to give the General Accounting Office the authority to monitor the monitor, to review the activities of the Commerce Department under this legislation, and, on the basis of that review of data and its reports, makes recommendations to Congress.

I do not think I could support this amendment if it were going to create another agency, if it would authorize GAO to duplicate activities of the Commerce Department and the gathering of data causing inconvenience to businesses, farm groups, and others. If on the other hand it is clearly, as I believe it is, intended, to simply put the Comptroller General in the position of reviewing the monitoring procedures and the implementation of an export control policy, of making recommendations to the Congress, drawing on other agencies of government for facts, why I certainly would not oppose it.

I think if that is a proper interpretation as it stands amended, that the Comptroller General in this capacity could be of great assistance to the Congress.

Mr. BAYH. Basically, I want to say to my distinguished colleague from Illinois that the Comptroller General would provide a reviewing function of what is happening down at the Department of Commerce, but I see no reason for the amendment unless he is also permitted in those instances where he finds fault with what Commerce is doing to seek independent data and give us the advice of his independent judgment.

We do not want to duplicate what the Department of Commerce is doing, but I do not think we will be foreclosed from having our branch of the GAO give us independent data if it is felt the Commerce Department is not giving us the right data.

Mr. STEVENSON. The concern I have is not so much with independent data as it is with the collecting of the data.

The Senator from Indiana in this amendment gives the Comptroller General the authority to request information of other agencies of the Government. I do not see any authority here for the Comptroller General to set up his own independent monitoring agency and go out duplicating the activities of the Commerce Department requiring reports from businesses, farm groups, and the like.

It seems to me that the purpose could be fulfilled with information from other agencies, and the ultimate purpose of just giving ourselves reliable data is accomplished by assuring through the GAO that the Commerce Department's information-gathering techniques are reliable and that they are functioning properly in acquiring the data that we need.

Mr. BAYH. Well, I think we are saying the same thing, but I think I want to emphasize that if this is to be a legitimate review, as I think the Senator from Illinois wants and certainly the Senator

from Indiana wants, then we have to say to the Comptroller General, alert us if you, from other sources, can make the judgment that what the Commerce Department is doing is wrong or the information they are giving us is either wrong or can be interpreted in a different way.

Mr. STEVENSON. Certainly, GAO in performing this function might take spot checks to determine the reliability of the basic data that the Commerce Department is acquiring.

I think that is reasonable, but I do not believe there is any misunderstanding about the intent or purpose of this amendment. I have discussed it with the Senator from Oregon.

Mr. PACKWOOD. Mr. President, we have no objection to this amendment or to the Senator's other amendment relating to Alaska oil and would be prepared to accept them both.

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

Mr. STEVENSON. Mr. President, may I suggest we first move to the consideration of amendment No. 1610. I believe that is the pending question.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 1610.

The amendment was agreed to.

AMENDMENT NO. 1609

Mr. BAYH. Mr. President, I suggest we return to the previous amendment that was temporarily laid aside.

The PRESIDING OFFICER. The clerk will state the amendment No. 1609.

The legislative clerk read as follows:

SEC. . Section 28(u) of the Mineral Leasing Act of 1920 (30 U.S.C. 185) is amended by inserting immediately after "quantity and quality of petroleum available to the United States" the following: "or results, directly or indirectly, in any increase in the price thereof".

Mr. PACKWOOD. 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. BAYH. 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. BAYH. I have no further discussion.

The PRESIDING OFFICER. The question is on agreeing to the pending amendment (No. 1609).

The amendment was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

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

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

AMENDMENT NO. 1630

Mr. HARTKE. Mr. President, I send to the desk amendment No. 1630, as modified, and ask that it be read.

The PRESIDING OFFICER. The clerk will read the amendment.

The legislative clerk proceeded to read the amendment.

Mr. HARTKE. 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, as modified, will be printed in the RECORD.

The amendment, as modified, is as follows:

On page 6, between lines 16 and 17, insert the following new section 6, renumbering section 6 as section 7 and subsequent sections accordingly:

SCRAP IRON AND STEEL

SEC. 6. Section 4 of the Export Administration Act of 1969, as amended by section 3 and section 5 of this Act, is amended further by adding at the end thereof the following new subsections:

"(h) (1) For the fiscal year 1975, not more than five million tons of iron and steel scrap may be exported from the United States, including the District of Columbia, the Canal Zone, the Commonwealth of Puerto Rico, and all the territories, dependencies, and possessions of the United States.

"(2) The Secretary of Commerce is directed to allocate the iron and steel scrap that may be exported under (1) of this subsection consistent with the present allocation of iron and steel scrap exercised pursuant to the authority of this Act.

"(3) The Secretary of Commerce shall license exporters of iron and steel scrap in order to carry out this subsection.".

Mr. HARTKE. Mr. President, I have modified my amendment by striking the words "balance of" on line 6, thereby making the export controls I propose apply to the whole of fiscal year 1975 rather than the remainder.

Mr. President, on December 13, 1973, I detailed my concern about the critical short supply of iron and steel scrap and requested limiting exports of this commodity for fiscal year 1974. Unfortunately, Congress was not able to act on this measure at that time. However, my proposal alerted the Department of Commerce to the critical situation and that department made a weak attempt to alleviate the problem.

A critical short supply of iron and steel scrap still exists and in order to ease the present condition, I am offering this amendment which would limit exports of this scarce commodity to no more than 5 million tons for fiscal year 1975.

Such domestic supplies caused by excessive exports have added substantially to increased prices fueling domestic inflation. The Department of Commerce announced recently that in June of this year, scrap steel exports were at a yearly high. In June, over 922,000 tons of scrap were exported, bringing the cumulative total for the first 6 months of 1974 to 4.890 million tons.

The Department of Commerce has specified that they would license only 2.1 million tons per quarter. This would be 4.2 million tons for 6 months, yet 4.890 million tons have already been shipped out this year—690,000 tons over the Department's promised limit on exports in 1973.

If this excess policy is continued by the Commerce Department, total exports of scrap will reach over 9 million tons, only 2 million tons less than exports in 1973. It was the expressed purpose of the Department to limit exports, but that, in fact, is not happening.

The ferrous scrap situation threatens job stability, industrial growth and the American steel industry's ability to supply the Nation's need for steel.

Today, inventories of ferrous scrap have shrunk to their lowest level since World War II. As confirming evidence of shortages of scrap, especially in essential grades and sizes, scrap prices have soared far above their previous highs.

Mr. President, I ask unanimous consent to have printed in the RECORD at this point an article entitled "Higher Scrap Costs Loom on the Horizon," written by Walt Bohne and published in the American Metal Market of July 25, 1974.

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

HIGHER SCRAP COSTS LOOM ON THE HORIZON

(By Walt Bohne)

CHICAGO.—Brokers bidding for July auto stamping plant bundles are predicting they'll draw prices in excess of the $155 per ton average attracted a month ago, based on recent ferrous scrap sales by the Erie Lackawanna and Baltimore & Ohio Railroads.

These recent rail sales which brought from $18 to $25 per ton more than they had a month earlier, are seen by traders as a barometer for the August ferrous scrap market.

Railroad scrap sales last week by the Penn Central Railroad substantiated the recent trend to higher scrap costs. Pennsy offerings brought $163 a ton for Class 24 railroad steel (listed generally as No. 1 railroad steel).

This category is generally on a par with No. 1 industrial heavy melting which is currently being listed in the district at $145 a ton and in Pittsburgh at $160 a ton.

STEEL AXLES HIGH

The highest priced item sold on the Pennsy scrap list was steel axles at $201 a ton, compared with $169 a ton paid a month ago by the top bidder.

This price breaks the $200 barrier for a top grade of scrap steel for the first time in history, observed one trader.

Other items went to high bidders at levels ranging from $141 to $190 a gross ton, in most cases delivered over the Pennsy's national rail network. Railroad specialties brought $171 a ton; scrap rail $180 a ton; and rerolling rail $190 a gross ton.

PRICE RANGES

The price range commanded by railroad scrap reflects an across-the-board price range for both prepared and unprepared material.

Some traders look for this pattern to rub off on the ferrous scrap market generally.

According to one source, the largest amount of auto scrap this month will come from the Vega producing plant in Lordstown, Ohio, which has been on strike for about a week.

Tonnage from Ford Motor Co. is not expected to change much from a month ago.

However, Chrysler Corp., which increased its tonnage offered by 30 percent in June,

is expected to cut back by as much as one-half the auto scrap it offers this month.

Mr. HARTKE. Unless the Federal Government acts now to further limit exports of iron and steel scrap, steel mills and foundries in the United States will incur additional disruption in their production scheduling, at a time when domestic demand for iron and steep scrap continues at the highest level in history.

For well over 3 years, the foundry and steel industries' warnings have been answered with inadequate measures by the Commerce Department. As a result, the crisis has so deepened that only strong measures will now suffice.

Ferrous scrap makes up almost one-half of the total metallic input used in steelmaking. This stcrap is especially critcal for electric-furnace plants; their metallic input is almost 100 percent scrap. Of the projected 51.7 million tons of purchased scrap needed by the steel industry and foundries in 1974, approximately 29 million tons will be required by hundreds of smaller companies without blast-furnace facilities.

In all, to produce 150 million net tons of raw steel in 1974—the same amount as last year—plus 18 million tons of castings, the steel and foundry industries will need 51.7 million net tons of purchased ferrous scrap, or 8 million tons more than in 1973.

The increased need stems from two main causes:

First. There will be less pig-iron production in 1974. That is a consequence, among other things, of the tight supply of metallurgical coal, further compounded by the widespread shutdown recently of coal mines in West Virginia.

Second. There will be 3 million fewer tons of scrap available from in-plant sources in 1974, because of the heavy draw-down of inventories in 1973 to meet demand for finished steel.

The steel industry, with the support of the United Steelworkers Union and foundry companies, is asking that present scrap exports currently authorized at a monthly rate of 700,000 tons, an annual rate of 8.4 million tons, be reduced to assure an effective response to the scrap shortage. Part of the answer would be to limit exports of ferrous and stainless scrap to no more than 5 million tons for fiscal year 1975.

What is the history of the export of scrap steel? Based on its analysis of rising domestic and world steel demand, in late 1972, the steel industry warned the Commerce Department that a serious scrap shortage would develop in 1973 and that this situation could worsen as world demand for steel continued to increase. That is what happened.

In the last 6 months of 1972, exports of ferrous scrap were running well ahead of averages over the previous 10 years.

The pace quickened still more at the turn of 1973. Compared with 1 year earlier, export tonnage in December 1972 was up 90 percent; in January 1973, it was up 160 percent.

Translated into an annual rate, as the steel industry pointed out to a congressional committee in March 1973, this amounted to 13.3 million net tons. By contrast, the annual average over 10 preceding years was 7.4 million tons.

During the abnormal surge in exports of American ferrous scrap, demand at home for this essential raw material was mounting.

In December 1972, the steel and foundry industry asked the Commerce Department to limit exports to a reasonable level. Specifically, the industry asked that they be limited to an annual figure of about 7 million tons—600,000 tons a month.

The Government did not act until July 1973, and then it took only limited action. It was a case of too little, too late. When the books closed last year, 11.3 million tons had gone to export, badly depleting available domestic stocks.

To grasp the impact of high exports on domestic supply, consider this: Last year, 5.3 million additional tons of ferrous scrap were added to the U.S. supply. Yet, of this increase, 3.9 million tons went abroad in exports, leaving only 1.4 million tons for domestic use.

In 1973, the supply of purchased scrap reached a level of 54.6 million net tons—including exports of 11.3 million tons. Part of this supply had been accumulated in late 1972, and shipped to coastal ports for export in 1973. Getting this much supply in 1974 is unlikely due to this year's projected decline in prompt industrial scrap—largely automotive—and to the fact that last year, high domestic demand combined with an unprecedented rise in exports caused a serious scrap shortage. This year, however, even if the supply of purchased scrap reaches the level achieved last year, projected domestic demand of 51.7 million tons in 1974, will require that exports be limited to 3 million tons this year—if domestic requirements are to be met. The alternative: Scrap exports at a higher level will result in a proportionate decline in the amount of finished steel available to meet the needs of the domestic economy.

Finally, I ask my colleagues to consider what is done by countries of Western Europe and by Japan.

Except when home demand is low, they forbid or, at best, allow only minimal exports of scrap. Last year, for example, scrap exports out of the European Economic Community, a steel market comparable to our own, approximated only 400,000 tons, compared with the 11.3 million tons exported by the United States.

As worldwide demand was soaring, Britain, in September 1972, imposed an embargo closing off its exports of ferrous scrap except for a few low-quality grades.

Thus, while other industrial countries assure their own needs for ferrous scrap, the United States alone permits massive and unprecedented exports of this essential commodity. In doing so, it has, among other things, put its own steelmakers and foundries at an unfair disadvantage.

Certainly, in line with America's new realization that raw materials are in finite supply, Government on the one hand and concerned industries on the other, should develop long-term programs for scrap recovery. But longer term programs cannot answer the immediate need to maintain production operations.

Mr. President, the need for this amendment is clear. Potential adverse economic consequences of steel and iron shortages grow more severe with each passing week. The Congress must meet its responsibilities and take corrective action immediately.

For that reason, I urge the adoption of my amendment.

Mr. PACKWOOD. Mr. President, I have grave misgivings about this amendment. In the committee we have had numerous hearings on the subject. We have had both the scrap exporters and the purchasers of scrap come in and testify.

I found that the greatest part of the problem came during the wage and price control era, when we had a freeze on the price of scrap in this country, and it was much more profitable at that time to sell scrap overseas, where there was no limitation on price, although that was a problem we had with some other domestic products at that time also.

Second, I find that the steel companies now are exporting someplace between 10 and 15 million tons of steel a year, and if they are in a position to export this overseas in the form of finished products, I think it is unfair that they ask for the right to have that export market for themselves and, at the same time, want the scrap dealers to subsidize the purchase of their raw materials so that they can engage in a profitable overseas market.

Third, we have this situation under reasonable control now with the limitations placed by the Secretary of Commerce under the Export Control Act, and I would have misgivings about freezing into law a fixed amount, as I look at it now under your amendment, not for the remainder of the fiscal year but the start of the fiscal year, and I think it would be unwise under the circumstances to freeze a fixed amount under law when we are not sure what the market conditions are going to be 6, 7, 8 months hence, and especially since the exporters of steel are exporting overseas at a good profit to themselves.

Mr. HARTKE. I feel what we are going to do is to affect the inflationary condition of this country. Steel prices are going to continue going up higher and higher. Ferrous scrap exceeded for the first time $200 a ton. Shippings by Penn Central—it is still the biggest shipper of scrap—are reaching an all-time high.

The difficulty, very simply, is when the Senator says he finds this situation developed during the price freeze, I do not think the facts will substantiate that. The fact of the matter is that this year alone what we have here is even with the attempt by the Commerce Department to give lip service to some type of export control, which they have done in a haphazard and half-hearted fashion, it demonstrates specifically that in the first six months of this year they are

going to exceed the annual allocation they set up by their own decision.

It is not merely a question of the steel mills themselves, it is a question of everybody concerned in the United States as to whether we are going to be more dependent upon foreign steel and put our own people out of work simply because we are shipping the scrap overseas.

One of the reasons I have indicated in my statement is that these other countries have lower-priced scrap at home which they protect in their own markets, and then they subsidize and add to the amount of scrap they have by going into the world market, and especially into the United States, and can afford to bid up the price.

For example, on the transportation costs alone, one shipper out of Connecticut said he could ship his scrap in such a way that it would only cost him $7 to go ahead and have that type of scrap bought and shipped to Japan, where it would cost $12 to ship it over to Pittsburgh. So we can see very readily what has happened here, and what we are doing is we are continuing some of the folly that we purposed in the early part of the 1930's when Japan because a big user of our scrap at that time, for a different purpose maybe, and we were willing to go ahead and continue to export our own domestic supply.

There is no question, and I do not think that anyone in the hearings before this committee, can contravene the fact that, as far as the scrap metal is concerned, we are in short supply. It is necessary for our domestic steel industry. The net effect of not putting in this type of control is to really not alone deplete our natural resources of scrap ferrous metal, but also, at the same time, substantially decrease the production capacity of our American steel mills. If we want to go ahead and bankrupt the United States, a vote against this amendment is a vote to bankrupt the United States in this one particular industry.

Mr. STEVENSON. Mr. President, I first want to commend the Senator from Indiana (Mr. HARTKE) for bringing this serious matter to the attention of the Senate.

As the Senator from Oregon (Mr. PACKWOOD) mentioned, it is not a matter which has escaped the attention of the Banking Committee. In fact, we have held hearings on the ferrous scrap shortage, and we have considered other proposals to limit exports of ferrous scrap.

As the Senator from Indiana points out, the scrap shortages and the high costs ripple out to the entire economy and become a source of inflation.

The question in my mind is one of methodology; and it is a question of whether the Congress is a proper body to mandate an export level or whether it is the Department of Commerce.

We have many such situations before us, and I just doubt the wisdom or the capability of Congress in legislating levels of exports for commodities. If we did it in this case, there would be no reason for not doing it in another case in which the shortage is just as severe and the inflationary consequences just as serious.

After considering this shortage and other shortages, the committee has taken the position that what we ought to do is try to reform the administration of export policy by the Department of Commerce. As one means of doing that, this bill, if enacted, would establish a new monitoring requirement that would give the Department of Commerce more reliable and better information with which to impose export controls and also give Congress a better opportunity to evaluate the Commerce Department's performance should that become necessary.

It is for that philosophical reason that I have to oppose this amendment. It is not for any lack of concern. In fact, I have introduced similar legislation in the past.

It is because I think the Department of Commerce, with the monitoring provisions that will be enacted into law and with the ability to act today in response to changing circumstances, is in a far better position to monitor exports and to impose export controls than is Congress. In fact, it has already acted in the case of ferrous scrap.

Mr. MANSFIELD. Mr. President, I ask for the yeas and nays on the pending amendment. I understand that is the desire of the Senator from Indiana (Mr. HARTKE).

Mr. HARTKE. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER (Mr. GRAVEL). Is there a sufficient second? There is not a sufficient second.

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

Mr. MANSFIELD. Mr. President, would the Senator withhold that?

Mr. HARTKE. Yes, I will.

Mr. MANSFIELD. Mr. President, I ask unanimous consent, barring unforeseen developments, that the vote on the pending amendment occur at the hour of 2 o'clock. If anything unanticipated comes up this will be vitiated.

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

Mr. MANSFIELD. Mr. President, let me correct that to not to exceed 2 o'clock.

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

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

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

Mr. MANSFIELD. Mr. President, I ask for the yeas and nays on the pending amendment.

The yeas and nays were ordered.

Mr. HARTKE. Mr. President, have the yeas and nays been ordered?

The PRESIDING OFFICER. Yes.

Mr. HARTKE. Mr. President, I wish to comment briefly on what the Senator from Illinois has said.

What we are doing here is dealing basically with a problem where there was a surrender of constitutional authority and a delegation of legislative authority to the Department of Commerce. The Export Control Act was passed because the authority to regulate commerce is strictly in the Congress. That delegation was made, and, in the report itself, there is a statement by the committee in support of this bill stating that the Commerce Deparment had failed to interpret his delegation of authority in the manner in which the Congress had intended; that they had been far too strict in their definition of when they should move in the field of export controls.

The argument made by the Senator from Illinois does not deal with the merits of the amendment. As I understand it, he is just arguing about the procedure which is to be followed.

Really, all this amendment does is to tighten up the formula. This provides for a formula for control of export of an item which is in short supply. The change made by the committee provides that it will no longer be necessary for demand to be abnormal before export controls may be imposed. Instead, the controls may be used when foreign demand results or will result in an excessive drain of domestic material and serious inflation.

Both those factors are involved here. There is a serious drain of domestic supply which is contributing to inflation. So there are all the elements here present.

There is no argument against the merits. Not one single argument has been presented on this floor, not one single argument was presented in the committee against the merits of this type of amendment. As I said before, all we are doing is modifying the formula. The mechanism does not change.

We are simply providing that in this field, at least, there is an effort here and an obvious opportunity to control inflation.

So we have two propositions facing us. We want to control inflation, and this will be a control on inflation. If we want to prevent the abnormal drain of an item which is in short supply, we can do that at the same time that we can provide for a continuation of a vital and very necessary domestic energy supply, and also for a domestic steel source.

Mr. President, I see no argument against this amendment at all, except for the fact that it was not included in the committee. Maybe they feel somewhat chagrined that they did not include it.

The PRESIDING OFFICER. Who yields time?

Mr. DOLE. 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. 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.

ORDER WITH RESPECT TO VOTE ON CLOTURE

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that with respect to the vote on the motion to invoke cloture, that all amendments that are at the desk at the time the vote oc-

curs qualify under the reading requirement of the rules.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

SURFACE MINING CONTROL AND RECLAMATION ACT OF 1974

Mr. MANSFIELD. Mr. President. I ask the Chair to lay before the Senate a message from the House of Representatives on S. 425.

The PRESIDING OFFICER laid before the Senate the amendments of the House of Representatives to the bill (S. 425) to provide for the cooperation between the Secretary of the Interior and the States with respect to the regulation of surface mining operations, and the acquisition and reclamation of abandoned mines, and for other purposes, with amendments which were to strike out all after the enacting clause, and insert:

That this Act may be cited as the "Surface Mining Control and Reclamation Act of 1974".

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TITLE I—FINDINGS AND PURPOSES

FINDINGS

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.

PURPOSES

SEC. 102. It is the purpose of this Act to—

(a) establish a nationwide program to prevent the adverse effects to society and the environment resulting from surface coal mining operations and surface impacts of underground coal mining operations;

(b) establish priorities to the extent necessary in the nationwide program among the various types and individual operations of mining activities, their impacts on the environment, and the locations of mining relative to population concentrations and impacted land uses;

(c) assure that the rights of surface landowners and other persons with a legal interest in the land or appurtenances thereto are fully protected from such operations;

(d) assure that surface coal mining operations are not conducted where reclamation as required by this Act is not feasible;

(e) assure that surface coal mining operations are so conducted as to protect the environment;

(f) assure that adequate procedures are undertaken to reclaim surface areas as contemporaneously as possible with the surface coal mining operations;

(g) assure that the coal supply essential to the Nation's energy requirements, and to its economic and social well-being is provided;

(h) assist the States in developing and implementing a program to achieve the purposes of this Act;

(i) promote the reclamation of mined areas left without adequate reclamation prior to the enactment of this Act and which continue, in their unreclaimed condition, to substantially degrade the quality of the environment, prevent or damage the beneficial use of land or water resources, or endanger the health or safety of the public; and

(j) assure that appropriate procedures are provided for the 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.

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 on lands on which such operations are regulated by the State 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 mountaintop mining operations which will eliminate all high walls, 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, the operator shall 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 transects the coal deposit 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 not more than the angle of repose to provide adequate drainage 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, replace it on the backfill area, or if not utilized immediately, segregate it in a separate pile from other spoil, 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 contamination by other 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 of insufficient quantity or of poor quality for 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 Pubilc 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 specfic 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 eighty days from the date of enactment of this Act, all surface coal mining operations on lands on which such operations are regulated by the State existing at the date of enactment shall comply with the standards in subsection (b) above with respect to lands from which the overburden has not been removed. Within one hundred and twenty days following 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 law 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 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, new or 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.

(i) On and after the date of enactment of this Act, no person shall open, develop, or extend any new or previously mined or abandoned site for surface coal mining operations within any area of the National Park System, the National Wildlife Refuge System, or the National Wilderness Preservation System. Nothing in this Act shall be construed as authorizing surface coal mining operations within Federal lands where such mining is prohibited on the date of enactment of this Act by law, regulation, order, deed, or other instrument.

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 coordinating 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 with 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) The State regulatory authority shall designate an area as unsuitable for all or certain types of surface coal mining operations if the State regulatory authority determines that reclamation pursuant to the requirements of this Act is not physically feasible.

(3) A surface area may be designated unsuitable for 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 for 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 legal 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. 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. 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 application 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 as to which an administrative proceeding has commenced pursuant to section 206(a)(4)(D) of this Act, 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 section 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 Forest System, 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, within any area of the National Forest System or the Wild and Scenic Rivers System or on lands within either system where the deeds conveying the surface lands to the United States reserve the coal and provide for the mining thereof; 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 lands affected that are noncontiguous;

(11) the operator has not forfeited a bond or partial bond under this Act within the past five years;

(12) the surface coal mine operations are not located within, and would not adversely affect, an alluvial valley floor in semiarid and arid regions; and

(13) 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 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 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 when specific subsurface information is deemed essential and requested by the regulatory authority. 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 aquifers; 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 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; and profiles at appropriate 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 contest 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 insection 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. 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—

(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.

(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 reflecting 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, replace it on the backfill area, or if not utilized immediately, segregate it in a separate pile from other spoil 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 contamination by other acid

or toxic material, and is in a usable condition for sustaining vegetation when restored during reclamation, except if topsoil is of insufficient quantity or of poor quality for 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 the 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 transects the coal deposit 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, to provide adequate drainage and to cover all acid-forming and other toxic materials, in order to achieve and ecologically sound land use compatible with the surrounding region: *And provided further,* That in surface coal mining other than as described 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 land 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 siltation 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 of the planned blasting schedule to local governments and advance notice to residents who might be affected by the use of such explosives by publication in a newspaper of general circulation in the locality of the proposed site one week in advance of the planned blasting and post 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 from underground mines in order to prevent breakthroughs and to protect health or safety of miners: *Provided,* That the regulatory authority shall permit an operator to mine closer to such a mine: *Provided,* It does not create hazards to the health and safety of miners, or shall permit an operator to mine near, through, or partially through an abandoned underground mine working where such mining through will achieve improved resource recovery, abatement of water pollution or

elimination of public hazards and such mining shall be consistent with the provisions of this Act.

(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 to mining operations which create a plateau with no highwalls remaining in such a manner as to otherwise meet the standards of this subsection 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) 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.

(5) 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 wth 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, agricultural, recreational, or public facility development is proposed for postmining use of the affected land, the regulatory authority may grant appropriate exceptions to the requirements for regrading, 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 affected land, compared with the premining use;

(B) the equal 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 shall be reviewed not more than three years from the date of issuance of the permit, unless the applicant affirmatively demonstrates that the proposed development is proceeding in accordance with 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 directed toward the surface affected by such underground coal mining operations 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) Adopt measures consistent with known technology 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: *Provided,* That nothing in this subsection shall be construed to prohibit the standard method of room and pillar continuous mining;

(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 shall suspend underground coal mining under urbanized areas, cities, towns, and communities and adjacent to industrial or commercial buildings, major impoundments, or permanent streams if he finds imminent danger to inhabitants of the urbanized areas, cities, towns, and communities.

(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 revi-

sion 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 or 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 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. The regulatory authority shall notify 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 the operator's 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 initial or revised application for a permit for 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 pursant 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. 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 or 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 de-

posited 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.

(f) With any application for total or partial bond release filed with the regulatory authority, the regulatory authority shall notify the municipality in which a surface mining operation is located by certified mail at least 30 days prior to the release of all or a portion of the bond.

(g) 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 hearing. 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.

(h) 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.

(i) 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.

(j) 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 operator, 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 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 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 entrances 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 adminis-

trative 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 having an interest which is or may be adversely affected by actions of the Secretary or the regulatory authority may commence a civil action on his own behalf in an appropriate United States district court—

(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 order such violation or failure to be corrected, 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) 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 a 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 (including any permittee defending an action brought pursuant to this section), 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 leads 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 continuing 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.

(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(b) 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 subsection (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 shall 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 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 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-side 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.

ANTHRACITE COAL MINES

SEC. 227. (a) The Secretary is hereby authorized to and shall issue separate regulations according to time schedules established in the Act for the interim and permanent programs for anthracite coal surface mines, if such mines are regulated by environmental protection standards of the State in which they are located. Such alternative regulations shall adopt, in each instance, the environmental protection provisions of the State regulatory program in existence at the date of enactment of this Act in lieu of: sections 201(b) and (c), 202, 209 (except subsection 209(d)(3)), 210, and 211 of this Act. Provisions of sections 216 and 217 are applicable except for specified bond limits and period of re-vegetation responsibility. All other provisions of this Act apply and the regulations issued by the Secretary of Interior for each State anthracite regulatory program shall so reflect; *Provided, however,* That upon amendment of a State's regulatory program for anthracite mining or regulations thereunder in force in lieu of the above cited sections of this Act, the Secretary shall issue such additional regulations as necessary to meet the purposes of this Act.

(b) The Secretary of Interior shall report to Congress biennially, commencing on December 31, 1975, as to the effectiveness of such State anthracite regulatory programs operating in conjunction with this Act with respect to protecting the environment and such reports shall include those recommendations the Secretary deems necessary for program changes in order to better meet the environmental protection objectives of this Act.

TITLE III—INDIAN LANDS PROGRAM

GRANTS TO TRIBES

SEC. 301. (a) The Secretary is authorized to make annual grants directly to any Indian tribe in developing and administering an Indian lands program for the purpose of enabling the tribe to realize benefits from the development of its coal resources while at the same time protecting the cultural

values of the tribe and the physical environment of the reservation, including land, timber, surface and ground waters, and air, by the establishment of exploration, mine operating, and reclamation regulations.

(b) The distribution of funds under this Act shall achieve the purposes of the Act, recognize special jurisdictional status of Indian lands and allotted lands of such tribes and preserve the power of Indian tribes to approve or disapprove surface mining and reclamation operations.

(c) Indian lands programs developed by any Indian tribe shall meet all provisions of this Act and where any provision of any tribal code, ordinance, or regulation in effect upon the date of enactment of this Act or which may become effective thereafter, provides for environmental controls and regulations of surface mining and reclamation operations which are more stringent than the provisions of this Act or any regulation issued pursuant hereto, such tribal code, ordinance, or regulation shall not be construed to be inconsistent with this Act.

COAL LEASING

SEC. 302. The Secretary is directed to obtain written prior approval of the tribe before leasing coal under the ownership of the tribe.

APPROVAL OF PROGRAM

SEC. 303. (a) The Secretary is directed to promulgate and publish in the Federal Register regulations for Indian lands programs pursuant to this title which adequately protect Indian lands. Such regulations shall be promulgated and published under the guidelines of section 202 of this Act.

(b) If within twenty-four months after the receipt of funding under section 301(a) a tribe shall have submitted a tribal program, the Secretary shall approve the program within sixty days of its submission if said program is consistent with standards set out in this Act. In the event that the Secretary finds that the program is inconsistent with the standards of this Act, the tribe will be allowed ninety days after written notification of the Secretary's rejection of the tribe's program to resubmit an acceptable program. In the event that a tribe's resubmitted program is rejected by the Secretary as inconsistent with standards of this Act, the Secretary shall establish a Federal program for the tribe's reservation in accordance with section 306. Upon request by a tribe, the Secretary may grant an extension of six months to the tribe for submission of an Indian lands program.

(c) Any tribe submitting an Indian lands program under the provisions of this Act shall be required (i) to hold a public hearing for the enrolled members of the tribe on its reservation before submission of the program, and (ii) to waive or cause the waiver of the defense of sovereign immunity for such tribe in connection with any suit, claim or legal proceeding brought pursuant to or arising out of this Act.

ADMINISTRATION BY THE SECRETARY

SEC. 304. (a) At any time, a tribe may select to have its program administered by the Secretary. Upon such a request by a tribe, the Secretary shall assume the responsibility of administering the tribe's program for that reservation.

(b) Permits issued pursuant to an approved Indian lands program shall be valid but reviewable under a Federal program. Immediately following promulgation of a Federal program, the Secretary shall undertake to review such permits to determine that the requirements of this Act are not 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 him a reasonable time to conform ongoing surface mining and reclamation operations to the requirements of the Federal program.

EXISTING OPERATION

SEC. 305. Any coal surface mining operation on Indian lands existing on the date of enactment or which shall commence before the approval of an Indian lands program under this Act shall be subject to the provisions of section 201(g) and section 225 of this Act until such time as there is an approved Indian lands program or Federal program for such Indian lands.

FEDERAL PROGRAM

SEC. 306. (a) In the event that a tribe shall decline to submit to the Secretary a proposal for funding as authorized by section 301(a) to develop a program within six months after the enactment of this Act, the Secretary shall, if it be necessary to protect the rights and interests of a tribe, develop and implement a Federal program which will insure the protection of the tribal culture and the physical environment of the reservation.

(b) Prior to promulgation and implementation of any proposed Federal program, the Secretary shall give adequate public notice and hold a public hearing for the enrolled members of the tribe in a location convenient to the tribe.

(c) In no event shall the Secretary approve a permit under a Federal program without the written prior approval of the Indian tribe having jurisdiction over the lands in question.

(d) If an Indian tribe submits a proposed Indian lands program to the Secretary after a Federal program has been promulgated and implemented pursuant to this section, and upon approval by the Secretary of the Indian lands program, the Federal program shall cease to be effective within thirty days after such approval. Immediately following promulgation of an Indian lands program, the tribe shall undertake to review all permits to determine that the requirements of the Indian lands program approved under this Act are not violated. If the tribe determines that any permit is not in conformity with the requirements of its program, it shall so advise the permittee and provide him a reasonable time to conform ongoing surface mining and reclamation operations to the requirements of the Indian lands program.

PERSONNEL

SEC. 307. (a) Indian tribes are authorized to use the funds authorized pursuant to section 301(a) of this title for the training and hiring of professional and technical personnel and, where appropriate, to allocate funds to legitimately recognized organizations of the tribe that are pursuing the objectives of this title, as well as hire special consultants, groups, or firms from the public and private sector, for the purpose of developing, establishing, or implementing an Indian lands program.

(b) Any Federal agency is authorized to assist any Indian tribe upon request from such tribe by providing the services of technical and professional staff on a reimbursable or nonreimbursable basis to assist in the development or management of an Indian lands program.

AUTHORIZATION PRIORITY

SEC. 308. Of the funds made available under section 701(a) of this Act, first priority on $2,000,000 for each of the fiscal years shall be for the purposes of this title.

REPORTS TO THE SECRETARY

SEC. 309. Any Indian tribe which is receiving or has received a grant pursuant to this title shall report at the end of each fiscal year to the Secretary, in a manner prescribed by him, on activities undertaken by the tribe pursuant to or under this title.

REPORTS TO CONGRESS

SEC. 310. The Secretary shall report annually to the President and the Congress on all actions taken in furtherance of this title and on the impacts of all other programs or services to or on behalf of Indians on the ability of Indian tribes to fulfill the requirements of this title.

ENFORCEMENT

SEC. 311. For the purpose of administering an Indian lands program under this Act, a tribe shall have jurisdictional authority including the ability to require compliance with said regulations over all persons whether Indian or non-Indian engaged in surface coal mining operations and that all disputes will be adjudicated in the appropriate tribal court forum until that remedy is exhausted and then the aggrieved party has the right to a trial de novo in Federal district court in the appropriate district.

TITLE IV—ABANDONED MINE RECLAMATION

ABANDONED COAL MINE RECLAMATION FUND

SEC. 401. (a) There is created on the books of the Treasury of the United States a trust fund to be known as the Abandoned Mine Reclamation Fund (hereinafter referred to as the "fund") which shall be administered by the Secretary of the Interior.

(b) The fund shall consist of amounts deposited in the fund, from time to time, derived from—

(1) the sale, lease, or rental of land reclaimed pursuant to this title;

(2) any user charge imposed on or for land reclaimed pursuant to this title, after expenditures for maintenance have been deducted; and

(3) appropriations made to the fund, or amounts credited to the fund, under subsection (d).

(c) Amounts covered into the fund shall be available for the acquisition and reclamation of land under section 405, administration of the fund, acquisition and filling of voids and sealing of tunnels, shafts, and entryways under section 406, and for use under section 404, by the Secretary of Agriculture, of up to one-fifth of the money deposited in the fund annually and transferred by the Secretary of the Interior to the Department of Agriculture for such purposes. Such amounts shall be available for such purposes only when appropriated therefor; and such appropriations may be made without fiscal year limitation.

(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), an 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.

OBJECTIVES OF FUND

SEC. 402. Objectives for the obligation of funds for the reclamation of previously mined areas shall reflect the following priorities in the order stated, and in carrying out the purposes of this Act, the Secretary shall give priority to the county in which the minerals were mined:

(a) the protection of health or safety of the public;

(b) protection of the environment from continued degradation and the conservation of land and water resources;

(c) the protection, construction, or enhancement of public facilities such as utilities, roads, recreation, and conservation facilities and their use;

(d) the improvement of lands and waters to a suitable condition useful in the economic and social development of the area affected; and

(e) research and demonstration projects relating to the development of surface mining reclamation and water quality control program methods and techniques in all areas of the United States.

ELIGIBLE LANDS

SEC. 403. The only land eligible for reclamation 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 reclamation status prior to the date of enactment of this Act, and for which there is no continuing reclamation responsibility under State or other Federal laws.

RECLAMATION OF RURAL LANDS

SEC. 404. (a) In order to provide for the control and prevention of erosion and sediment damages from unreclaimed mined lands, and to promote the conservation and development of soil and water resources of unreclaimed mined lands and lands affected by mining, the Secretary of Agriculture is authorized to enter into agreements, of not more than ten years with landowners (including owners of water rights) residents and tenants, and individually or collectively, determined by him to have control for the period of the agreement of lands in question therein, providing for land stabilization, erosion, and sediment control, and reclamation through conservation treatment, including measures for the conservation and development of soil, water (excluding stream channelization), woodland, wildlife, and recreation resources, of such lands. Such agreements shall be made by the Secretary with the owners, including owners of water rights, residents, or tenants (collectively or individually) of the lands in question.

(b) The landowner, including the owner of water rights, 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, including owner of water rights, resident, or tenant to be needed on the lands for which the plan was prepared. In those instances where it is determined that the water rights or water supply of a tenant, landowner, including owner of water rights, residents, or tenant have been adversley affected by a surface or underground coal mine operation which has removed or disturbed a stratum so as to significantly affect the hydrologic balance, such plan may include proposed measures to enhance water quality or quantity by means of joint action with other affected landowners, including owner of water rights, residents, or tenants in consultation with appropriate State and Federal agencies.

(c) Such plan shall be incorporated in an agreement under which the landowner, including owner of water rights, 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, including owner of water rights, resident, or tenant the Secretary of Agriculture is authorized to furnish financial and other assistance to such landowner, including owner of water rights, 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 carrying out 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 including water rights owners, resident, or tenant, or on not more than thirty acres of land which has been purchased jointly by such land owners including water rights owners, residents, or tenant under an agreement for the enhancement of water quality or quantity or on land which has been acquired by an appropriate State or local agency for the purpose of implementing such agreement.

(e) The Secretary of Agriculture may terminate any agreement with a landowner including water rights owners, 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 limitation 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, services, and authorities of the Commodity Credit Corporation.

(i) Funds shall be made available to the Secretary of Agriculture for the purposes of this section, as provided in section 401(c).

ACQUISITION AND RECLAMATION OF ABANDONED AND UNRECLAIMED MINED LANDS

SEC. 405. (a)(1) The Congress hereby declares that the acquisition of any interest in land or mineral rights in order to eliminate hazards to the environment or to the health or safety of the public from mined lands, or to construct, operate, or manage reclamation facilities and projects constitutes acquisition for a public use or purpose, notwithstanding that the Secretary 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 reclamation facility or project.

(2) The Secretary may acquire by purchase, donation, or otherwise, land or any interest therein which has been affected by surface mining and has not been reclaimed to its approximate original condition. Prior to making any acquisition of land under this section, the Secretary 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 402. 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 Secretary shall specifically determine the cost of such acquisition and reclamation and the benefits to the public to be gained therefrom.

(3) For the purposes of this section, when the Secretary 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 Secretary 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 reclamation or of continuing or increasingly serious threats to life, safety, or health, or to property, the Secretary 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 Secretary shall estimate to be the fair market value of such interest or rights; except that the Secretary 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.

(4) For the purposes of this section, when the Secretary takes action to acquire an interest in land and cannot determine which person or persons hold title to such interest or rights, the Secretary 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 Secretary 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 Secretary 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 Secretary and be deposited in the fund.

(5) States are encouraged to acquire abandoned and unreclaimed mined lands within their boundaries and to transfer such lands to the Secretary to be reclaimed under appropriate Federal regulations. The Secretary is authorized to make grants on a matching basis to States in such amounts as he deems appropriate for the purpose of carrying out 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 reclamation at fair market value less the State portion of the original acquisition price. Notwithstanding the provisions of paragraph (1) of this subsection, reclaimed 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 reclamation of the land, as negotiated by the Secretary, 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 Secretary 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.

(6) The Secretary shall prepare specifications for the reclamation of lands acquired under this section. In preparing these specifications, the Secretary shall utilize the specialized knowledge or experience of any Federal department or agency which can assist him in the development or implementation of the reclamation program required under this title and following the standards for reclamation set forth in this Act. The Secretary 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 Secretary. The Secretary shall follow the consultation and notification procedures specified in section 214(a) of this Act prior to the final approval of a reclamation plan.

(7) Any proposed reclamation contract shall be approved by the Secretary. Except as otherwise required by paragraph (8), the Secretary 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 Secretary 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 reclaimed under such contract is located. If no bids for the advertised contract are received at the time and place fixed for receiving them, the Secretary 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 Secretary 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.

(8) In selecting lands to be acquired pursuant to this section and in formulating regulations for the making of grants to the States to acquire lands pursuant to this title, the Secretary shall give priority to lands in this unreclaimed state which will meet the objectives as stated in section 402 above when reclaimed. For those lands which are reclaimed 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.

(9) Where land reclaimed pursuant to this section is deemed to be suitable for industrial, commercial, residential, or private recreational development, the Secretary 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 Secretary. If any such land sold is not put to the use specified by the Secretary 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.

(10) The Secretary 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 reclaimed 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 reclaimed.

(b)(1) The Secretary 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 of 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 Secretary 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 the 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 Secretary 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 Secretary 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 Secretary may provide, or contract with public and private organizations to provide information, advice, and technical assistance, including demonstrations, in furtherance of this subsection.

(4) The Secretary may make expenditures to carry out the puposes of this subsection, without regard to the provisions of section 403, in any area experiencing a rapid development of its coal resources which the Secretary has determined does not have adequate housing facilities.

FILLING VOIDS AND SEALING TUNNELS

SEC. 406. (a) The Congress declares that voids and open and abandoned tunnels shafts, and entryways resulting from mining constitute a hazard to the public health or safety. The Secretary, 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 Secretary determines could endanger life and property or constitute a hazard to the public health or 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 Secretary 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. 407. Not later than January 1, 1976, and annually thereafter, the Secretary shall report to the Congress on operations under the fund together with his recommendations as to future uses of the fund.

TITLE V—OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT

CREATION OF THE OFFICE

SEC. 501. (a) There is established in the Department of the Interior, the Office of Surface Mining Reclamation and Enforcement (hereinafter referred to as the "Office").

(b) The Office shall have a Director who shall be appointed by the President, by and with the advice and consent of the Senate, and shall be compensated at the rate provided for level IV of the Executive Schedule under section 5315 of title 5 of the United States Code, and such other employees as may be required. The Director shall have the responsibilities provided under this Act and those duties and responsibilities relating to the functions of the office which the Secretary may assign, consistent with this Act. Employees of the Office shall be recruited on the basis of their professional competence and capacity to administer objectively the provisions of this Act. No legal authority, program or function in any Federal agency which has as its purpose promoting the development or use of coal or other mineral resources, shall be transferred to the Office.

(c) The Secretary, acting through the Office, shall—

(1) administer the programs for controlling surface coal mining operations which are required by this Act; review and approve or disapprove State programs for controlling surface coal mining operations; make those investigations and inspections necessary to insure compliance with this Act; conduct hearings, administer oaths, issue subpenas, and compel the attendance of witnesses and production of written or printed material as provided for in this Act; issue cease-and-desist orders; review and vacate or modify or approve orders and decisions; and order the suspension, revocation, or withholding of any permit for failure to comply with any of the provisions of this Act or any rules and regulations adopted pursuant thereto;

(2) administer all responsibilities in Federal land use planning programs and associated functions which are now or hereafter assigned to the Secretary;

(3) publish and promulgate such rules and regulations as may be necessary to carry out the purposes and provisions of this Act;

(4) provide assistance to States for the development and implementation of State programs for assuring the control of surface coal mining operations and meeting the other requirements of this Act;

(5) develop and maintain an Information and Data Center on Surface Mining, Reclamation, and Surface Impacts of Underground Mining, which will make such data available to the public and to Federal, regional, State, and local agencies conducting or concerned with land use planning and agencies concerned with surface and underground mining and reclamation operations;

(6) assist the State in developing objective scientific standards and appropriate procedures and institutions for determining those areas of a State to be designated unsuitable for all or certain types of mining and for development of the State land use planning process pursuant to that process;

(7) monitor Federal and State research programs concerning mining and reclamation; maintain a continuing study of land use and environmental impacts of surface mining and surface effects of underground mining; and recommend to Congress the research and demonstration projects and necessary changes in public policy which are designated to (A) improve feasibility of underground coal mining, and (B) improve surface mining and reclamation techniques directed at eliminating environmental and social impacts; and

(8) perform such other duties as may be provided by law and relate to the purposes of this Act.

TITLE VI—A PROGRAM FOR NON-COAL-MINE ENVIRONMENTAL IMPACT CONTROL

DESIGNATION OF LANDS UNSUITABLE FOR MINING OF MINERALS OTHER THAN COAL

SEC. 601. (a) With respect to Federal lands within any State, the Secretary of Interior may, and if so requested by the Governor of such State, shall review any area within such lands to assess whether it may be unsuitable for mining operations for minerals or materials other than coal, pursuant to the criteria and procedures of this section.

(b) An area of Federal lands may be designated under this section as unsuitable for mining operations if such area consists of:

(i) land of a predominantly urban or suburban character, used primarily for residential or related purposes, the mineral estate of which remains in the public domain; or

(ii) lands where such mining operations could result in irreversible damage to important historic, cultural, scientific, or aesthetic values or natural systems, of more than local significance, or could unreasonably endanger human life and property.

(c) Any person having an interest which is or may be adversely affected shall have the right to petition the Secretary to seek exclusion of an area from mining operations pursuant to this section or the redesignation of an area or part thereof as suitable for such operations. Such petition shall contain allegations of fact with supporting evidence which would tend to substantiate the allegations. The petitioner shall be granted a hearing within a reasonable time and a finding with reasons therefor upon the matter of their petition. In any instance where a governor requests the Secretary to review an area, or where the Secretary finds the national interest so requires, the Secretary may temporarily withdraw the area to be reviewed from mineral entry or leasing pending such review: *Provided, however,* That such temporary withdrawal be ended as promptly as practicable and in no event shall exceed two years.

(d) In no event is a land area to be designated unsuitable for mining operations under this section on which mining operations are being conducted prior to the holding of a hearing on such petition in accordance with subsection (c) hereof. Valid existing rights shall be preserved and not affected by such designation. Designation of an area as unsuitable for mining operations under this section shall not prevent subsequent mineral exploration of such area, except that (i) with respect to lands designated under subsection 601(b)(i), such exploration shall require the prior written consent of the holder of the surface estate, which consent shall be filed with the Secretary, and (ii) the Secretary may promulgate, with respect to any designated area, regulations to minimize any adverse effects of such exploration.

(e) Prior to any designation pursuant to this section, the Secretary shall prepare a detailed statement on (i) the potential mineral resources of the area, (ii) the demand for such mineral resources, and (iii) the impact of such designation or the absence of such designation on the environment, economy, and the supply of such mineral resources.

(f) When the Secretary determines that an area on Federal lands is unsuitable for all or certain types of mining operations for minerals and materials other than coal, by reason of the criteria referred to in subsection 601(b), he may withdraw such area from mineral entry or leasing, or condition such entry or leasing so as to limit such mining operations in accordance with his determination, if the Secretary also determines, based on his analysis pursuant to subsection 601(e), that the benefits resulting for such designation would be greater than the benefits to the regional or national economy which could result from mineral development of such area.

(g) Any party with a valid legal interest who has appeared in the proceedings in connection with the Secretary's determination pursuant to this section and who is aggrieved by the Secretary's decision (or by his failure to act within a reasonable time) shall have the right of appeal for review by the United States District Court for the district in which the pertinent area is located.

TITLE VII—APPROPRIATION AUTHORIZATION; DEFINITIONS; AND GENERAL PROVISIONS

AUTHORIZATION OF APPROPRIATIONS

SEC. 701. There is authorized to be appropriated to the Secretary for the purposes of this Act the following sums, and all such funds appropriated shall remain available until expended:

(a) For the implementation and funding of sections 201 and 206 and title III contract authority is granted to the Secretary of the Interior for the sum of $10,000,000 to become available immediately upon enactment of this Act and $10,000,000 for each of the two succeeding fiscal years.

(b) For administrative and other purposes of this Act, except as otherwise provided for in this section, authorization is provided for the sum of $10,000,000 for the fiscal year ending June 30, 1975, for each of the two succeeding fiscal years the sum of $20,000,000, and $30,000,000 for each fiscal year thereafter.

(c) For research and demonstration projects authorized under section 707, including the study directed under section 704, there is authorized to be appropriated to the Secretary $5,000,000 for the fiscal year ending June 30, 1975, and $5,000,000 for each fiscal year thereafter.

RELATION TO OTHER LAWS

SEC. 702. Nothing in this Act or in any State regulations approved pursuant to it 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, as amended (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).

EMPLOYEE PROTECTION

SEC. 703. (a) No person shall fire, or in any other way discriminate against, or cause to be fired or discriminated against, any employee or any authorized representative of employees by reason of the fact that such employee or representative has filed, instituted, or caused to be filed or instituted any proceeding under this Act, or has testified or is about to testify in any proceeding resulting from the administration or enforcement of the provisions of this Act.

(b) Any employee or a representative of employees who believes that he has been fired or otherwise discriminated against by any person in violation of subsection (a) of this section may, within thirty days after such alleged violation occurs, apply to the Secretary for a review of such firing or alleged discrimination. A copy of the application shall be sent to the person or operator who will be the respondent. 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 any party to such review to enable the parties to present information relating to the alleged violation. The parties shall be given written notice of the time and place of the hearing at least five days prior to the hearing. Any such hearing shall be of record and shall be subject to section 554 of title 5 of the United States Code. Upon receiving the report of such investigation the Secretary shall make findings of fact. If he finds that a violation did occur, he shall issue a decision incorporating therein and his findings in an order requiring the party committing the violation to take such affirmative action to abate the violation as the Secretary deems appropriate, including, but not limited to, the rehiring or reinstatement of the employee or representative of employees to his former position with compensation. If he finds that there was no violation, he shall issue a finding. Orders issued by the Secretary under this subparagraph shall be subject to judicial review in the same manner as orders and decisions of the Secretary are subject to judicial review under this Act.

(c) Whenever an order is issued under this section to abate any violation, at the request of applicant, a sum equal to the aggregate amount of all costs and expenses (including attorneys' fees), to have been reasonably incurred by the applicant for, or in connection with, the institution and prosecution of such proceedings, shall be assessed against the persons committing the violation.

(d) The Secretary shall conduct continuing evaluations of potential losses or shifts of employment which may result from the enforcement of this Act or any requirement of this Act including, where appropriate, investigating threatened mine closures or reductions in employment allegedly resulting from such enforcement or requirement. Any employee who is discharged or laid off, threatened with discharge or layoff, or otherwise discriminated against by any person because of the alleged results of the enforcement or requirement of this Act, or any representative of such employee, may request the Secretary to conduct a full investigation of the matter. The Secretary shall thereupon investigate the matter, and, at the request of any interested party, shall hold public hearings on not less than five days' notice, and shall at such hearings require the parties, including the employer involved, to present information relating to the actual or potential effect of such limitation or order on employment and on any alleged discharge, layoff, or other discrimination and the detailed reasons or justification therefor. Any such hearing shall be of record and shall be subject to section 554 of title 5 of the United States Code. Upon receiving the report of such investigation, the Secretary shall promptly make findings of fact as to the effect of such enforcement or requirement on employment and on the alleged discharge, layoff, or discrimination and shall make such recommendations as he deems appropriate. Such report, findings, and recommendations shall be available to the public. Nothing in this subsection shall be construed to require or authorize the Secretary or a State to modify or withdraw any enforcement action or requirement.

STUDY OF SUBSIDENCE AND UNDERGROUND WASTE DISPOSAL IN COAL MINES

SEC. 704. The Secretary shall conduct, for the purpose of developing mining and recla-

mation performance standards a full and complete study and investigation of the practices of backfilling all coal mine wastes and coal processing plant wastes in mine voids or other equally effective methods and the control of subsidence to maximize the stability, value, and use of lands overlying underground coal mines. The Secretary shall report to the Congress the results of such study and investigation no later than the end of the two-year period beginning on the date of enactment of this Act.

DEFINITIONS

SEC. 705. For the purpose of this Act—

(1) The term "Secretary" means the Secretary of the Interior, except where otherwise described.

(2) 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.

(3) 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.

(4) The term "surface coal mining operations" means—

(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: *Provided, however,* 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 such ancillary mining operations which 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.

(5) The term "surface mining and reclamation operations" means surface mining operations and all activities necessary and incident to the reclamation of such operations.

(6) The term "lands within any State" or "lands within such State" means all lands within a State other than Federal lands and Indian lands.

(7) The term "Federal lands" means any land owned by the United States without regard to how the United States acquired ownership of the land and without regard to the agency having responsibility for management thereof, except Indian lands.

(8) The term "Indian lands" means all lands within the exterior boundaries of any Indian reservation, notwithstanding the issuance of any patent, and including rights-of-way, and all lands held in trust for or supervised by any Indian tribe.

(9) The term "Indian tribe" means any Indian tribe, band, group, or community having a governing body recognized by the Secretary.

(10) The term "Indian lands program" means a program established by an Indian tribe pursuant to title III to regulate surface mining and reclamation operations for coal, whichever is relevant, on Indian lands under its jurisdiction in accordance with the requirements of this Act and the regulations issued by the Secretary pursuant to this Act.

(11) The term "State program" means a program established by a State pursuant to title II to regulate surface coal mining and reclamation operations on lands within a State in accordance with the requirements of this Act and regulations issued by the Secretary pursuant to this Act.

(12) The term "Federal program" means a program established by the Secretary to regulate surface coal mining and reclamation operations on all lands in accordance with the requirements of this Act.

(13) The term "Federal lands program" means a program established by the Secretary pursuant to title II to regulate surface coal mining and reclamation operations on Federal lands and Indian lands.

(14) The term "reclamation plan" means a plan submitted by an applicant for a permit under a State program or Federal program which sets forth a plan for reclamation of the proposed surface mining operations pursuant to section 210.

(15) The term "State regulatory authority" means the department or agency in each State which has primary responsibility in that State for administering the State program pursuant to this Act.

(16) The term "regulatory authority" means the State regulatory authority where the State is administering this Act under an approved State program or the Secretary where the Secretary is administering any or all provisions of this Act.

(17) The term "person" means an individual, partnership, association, society, joint stock company, firm, company, corporation, or other business organization.

(18) The term "permit" means a permit to conduct surface mining and reclamation operations issued by the State regulatory authority pursuant to a State program or by the Secretary pursuant to a Federal program.

(19) The term "permit applicant" or "applicant" means a person applying for a permit.

(20) The term "permittee" means a person holding a permit.

(21) The term "fund" means the Abandoned Mine Reclamation Fund established pursuant to title IV.

(22) The term "appropriate original contour" means that surface configuration achieved by backfilling and grading of the mined area so that it closely resembles the surface configuration of the land prior to mining and blends into and is in accordance with the drainage pattern of the surrounding terrain, with all highwalls, spoil piles, and depressions eliminated except that water impoundments may be permitted where the regulatory authority determines that they are in compliance with the requirements of this Act.

(23) 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 Secretary, 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 reclamation operations which fully comply with the terms and requirements of this Act.

(24) The term "waiver" means any document which demonstrates the clear intention to convey rights in the mineral estate for the purpose of extracting such minerals by current surface mining methods.

(25) The term "operator" means any person, partnership, or corporation engaged in coal mining who removes or intends to remove more than two hundred and fifty tons of coal from the earth by coal mining within twelve consecutive calendar months in any one location.

(26) The term "reclamation" or "reclaim" means the combined process of land treatment that minimizes 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 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 minimize 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 reclamation of land to a stable condition at least fully capable of supporting the use or higher or better uses which they were capable of supporting prior to any mining.

(27) 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 214(a) of this Act and shall be readily identifiable by appropriate markers on the site.

(28) 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.

(29) The term "aquifer" means a zone, stratum, or group of strata, that can store and transmit water in sufficiently recoverable quantities to be of economic or ecologic value as a source of water.

(30) The term "imminent danger to the health or safety of the public" means the existence of any condition or practice, or any violation of a permit or other requirement of this Act in a surface coal mining and reclamation operation, which condition, practice, or violation could reasonably be expected to cause substantial physical harm to persons outside the permit area before such condition, practice, or violation can be abated.

(31) The term "unwarranted failure to comply" means the failure of a permittee to prevent the occurrence of any violation of his permit or any requirement of this Act due to indifference, lack of diligence, or lack of reasonable care, or the failure to abate any violation of such permit or the Act due to indifference, lack of diligence, or lack of reasonable care.

GRANTS TO THE STATES

SEC. 706. (a) The Secretary is authorized to make annual grants to any State for the purpose of assisting such State in developing, administering, and enforcing State programs under this Act. Such grants shall not exceed 80 per centum of the total costs incurred during the first year, 60 per centum of total costs incurred during the second year, and 40 per centum of the total costs incurred during the third and fourth years.

(b) The Secretary is authorized to cooperate with and provide assistance to any State for the purpose of assisting it in the de-

velopment, administration, and enforcement of its State programs. Such cooperation and assistance shall include—

(1) technical assistance and training including provision of necessary curricular and instruction materials, in the development, administration, and enforcement of the State programs; and

(2) assistance in preparing and maintaining a continuing inventory of information on surface mining and reclamation operations for each State for the purposes of evaluating the effectiveness of the State programs. Such assistance shall include all Federal departments and agencies making available data relevant to surface mining and reclamation operations and to the development, administration, and enforcement of State programs concerning such operations.

RESEARCH AND DEMONSTRATION PROJECTS

SEC. 707. (a) The Secretary is authorized to conduct and promote the coordination and acceleration of research, studies, surveys, experiments, and training in carrying out the provisions of this Act. In conducting the activities authorized by this section, the Secretary may enter into contracts with, and make grants to qualified institutions, agencies, organizations, and persons.

(b) The Secretary is authorized to enter into contracts with, and make grants to, the States and their political subdivisions, and other public institutions, agencies, organizations, and persons to carry out demonstration projects involving the reclamation of lands which have been disturbed by surface mining operations.

RESEARCH AND DEMONSTRATION PROJECTS ON ALTERNATIVE COAL MINING TECHNOLOGIES

SEC. 708. (a) The Secretary is authorized to conduct, and promote the coordination and acceleration of, research, studies, surveys, experiments, demonstration projects, and training relating to—

(1) the development and application of coal mining technologies which provide alternatives to surface disturbance and which maximize the recovery of available coal resources, including the improvement of present underground mining methods, methods for the return of underground mining wastes to the mine void, methods for the underground mining of thick coal seams and very deep coal seams, and such other means of mining as may be recommended in the studies authorized under section 704; and

(2) safety and health in the application of such technologies, methods, and means.

(b) In conducting the activities authorized by this section, the Secretary may enter into contracts with and make grants to qualified institutions, agencies, organizations, and persons.

(c) There are authorized to be appropriated to the Secretary, to carry out the purposes of this section, $50,000,000 for each fiscal year beginning with the fiscal year 1976, and for each year thereafter for the next four years.

ANNUAL REPORT

SEC. 709. The Secretary shall submit annually to the President and the Congress a report concerning activities conducted by him, the Federal Government, and the State pursuant to this Act. Among other matters, the Secretary 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, including recommendations for increasing the production from underground coal mines.

PROTECTION OF THE SURFACE OWNER AND OWNERS OF WATER RIGHTS

SEC. 710. (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, or a waiver by, the owner or owners of the surface lands involved to enter and commence surface mining operations on such land.

(b) In those instances where the mineral estate proposed to be mined by surface coal mining operations is owned by the Federal Government, and the surface rights are held pursuant to patent, the application for a permit shall include the written consent of the owner or owners of the surface lands involved to enter and commence surface mining operations on such land or a document which demonstrates the acquiescence of the owner of the surface rights to the extraction of minerals within the boundaries of his property by current surface mining methods.

(c) In those instances where the mineral estate proposed to be mined by surface coal mining operations 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 either—

(1) the written consent of the permittee or lessee of the surface lands involved to enter and commence surface coal mining operation on such land; or

(2) the execution of a bond or undertaking to the United States or the State, whichever is applicable, for the use and benefit of the permittee or lessee of the surface lands involved, the secure payment of any damages to the surface estate, to the crops, or to the tangible improvements of the permittee or lessee of the surface lands as may be determined by the patent involved, or as determined and fixed in an action brought against the operator or upon the bond in a court of competent jurisdiction. This bond is in addition to the performance bond required for reclamation under section 216.

(d) In those instances in which it is determined that a proposed coal surface mining operation is likely to adversely affect the hydrologic balance of water on or off site, or diminish the supply or quality of such water, the application for a permit shall include either—

(1) the written consent of all owners of water rights reasonably anticipated to be affected; or

(2) evidence of the capability and willingness to provide substitute water supply, at least equal in quality, quantity, and duration to the affected water rights of such owners.

(e) (1) An owner of water rights adversely affected may file a complaint detailing the loss in quality and quantity of his water with the regulatory authority.

(2) Upon receipt of such complaint the regulatory authority shall—

(A) investigate such complaint using all available information including the monitoring data gathered pursuant to section 219(b)(2):

(B) within 30 days issue a specific written finding as to the cause of the water loss in quantity or quality, if any;

(C) order the mining operator to replace the water, in like quality, quantity, and duration, within 30 days if the loss of such water was found to be due to the surface coal mining operations; and

(D) order the suspension of the operator's permit for failure to replace such water until such time as the operator has provided the substitute water supply.

(f) Nothing in this section shall be construed as affecting in any way the right of any person to enforce or protect, under applicable State law, his interest in water resources affected by a surface coal mining operation.

(g) For the purposes of this section, the term, "surface coal mining operation" does not include underground mining for coal.

SEVERABILITY

SEC. 711. 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.

PROTECTION OF GOVERNMENT EMPLOYEES

SEC. 712. Section 114, title 18, United States Code, is hereby amended by adding the words "or of the Department of the Interior" after the words "Department of Labor" contained in that section.

EXPERIMENTAL PRACTICES

SEC. 713. In order to encourage advances in mining and reclamation practices, the regulatory authority may authorize departures in individual cases on an experimental basis from the environmental protection performance standards promulgated under sections 211 and 212 of this Act. Such departures may be authorized if (i) the experimental practices are potentially more or at least as environmentally protective, during and after mining operations, as those required by promulgated standards; (ii) the mining operation is no larger than necessary to determine the effectiveness and economic feasibility of the experimental practices; and (iii) the experimental practices do not reduce the protection afforded public health and safety below that provided by promulgated standards.

ALASKAN SURFACE COAL MINE STUDY

SEC. 714. (a) The Secretary is directed to contract with the National Academy of Sciences-National Academy of Engineering for an in-depth study of surface coal mining conditions in the State of Alaska in order to determine the best set of surface mining regulations under which such mines should operate. The study shall—

(1) identify variations and differences between surface mining conditions in Alaska and surface mining conditions in the Lower 48 with respect to the environmental protection standards in this Act;

(2) identify suitable surface mining standards to assure that post-mining land use is compatible with the habitat, and surrounding terrain;

(3) identify impacts on the environment which could be engendered by current surface mining technology and identify how or if these impacts can be mitigated through the use of alternative mining technologies.

(b) The Secretary is to make a report to the President and Congress on the findings of the study no later than 24 months after the date of enactment of this Act;

(c) The Secretary shall include in his report a draft of Federal regulations to be promulgated to govern surface coal mining operations on Federal lands in the State of Alaska, and a draft of those regulations to use as a standard for determining the adequacy of an Alaskan State program for the regulation of surface coal mining operations;

(d) The draft regulations contained in the report are to be promulgated for comment by the public and other interested parties pursuant to this Act within 12 months of submission of the report to Congress. After considering such comments submitted and revising such regulations as appropriate, the Secretary shall promulgate such standards governing surface coal mining operations in the State of Alaska.

(e) Until the Secretary has made his report to the President and Congress and has promulgated Federal regulations on coal mining operations on Federal lands in Alaska, this Act shall not apply to the State of Alaska.

(f) There is hereby authorized to be appropriated for the purpose of this section $500,000.

PREFERENCE FOR PERSONS ADVERSELY AFFECTED BY THE ACT

SEC. 715. (a) In the award of contracts for the reclamation of abandoned and unreclaimed mined areas pursuant to title IV and for research and demonstration projects pursuant to section 707 of this Act the Secretary shall develop regulations which will accord a preference to surface mining operators who can demonstrate that their surface mining operations, despite good-faith efforts to comply with the requirements of this Act, have been adversely affected by the regulation of surface mining and reclamation operations pursuant to this Act.

(b) Contracts awarded pursuant to this section shall require the contractor to afford an employment preference to individuals whose employment has been adversely affected by this Act.

ASSISTANCE TO PERSONS UNEMPLOYED AS A RESULT OF THIS ACT

SEC. 716. (a) The President is authorized and directed to make grants to States to provide to any individual unemployed, if such unemployment resulted from the administration and enforcement of this Act and was in no way due to the fault of such individual, such assistance as the President deems appropriate while such individual is unemployed. Such assistance as a State shall provide under such a grant shall be available to individuals not otherwise eligible for unemployment compensation and individuals who have otherwise exhausted their eligibility for such unemployment compensation, and shall continue as long as unemployment in the area caused by such administration and enforcement continues (but not less than six months) or until the individual is reemployed in a suitable position, but not longer than two years after the individual becomes eligible for such assistance. Such assistance shall not exceed the maximum weekly amount under the unemployment compensation program of the State in which the employment loss occurred and shall be reduced by an amount of private income protection insurance compensation available to such individual for such period of unemployment.

(b) The President is authorized and directed to make grants to States to provide assistance on a temporary basis in the form of mortgage or rental payments to or on behalf of individuals and families who, as a result of financial hardship caused by any such unemployment, have received written notice of dispossession or eviction from a residence by reason of foreclosure of any mortgage or lien, cancellation of any contract of sale, or termination of any lease, entered into prior to the employment loss. Such assistance shall be provided for a period of not to exceed one year or for the duration of the period of financial hardship, whichever is the lesser.

(c) (1) Whenever the President determines that, as a result of any such employment loss, low-income households are unable to purchase adequate amounts of nutritious food the President is authorized, under such terms and conditions as it may prescribe, to distribute through the Secretary of Agriculture coupon allotments to such households pursuant to the provisions of the Food Stamp Act of 1964, as amended, and to make surplus commodities available.

(2) The President, through the Secretary of Agriculture, is authorized to continue to make such coupon allotments and surplus commodities available to such households for so long as he determines necessary, taking into consideration such factors as he deems appropriate, including the consequences of the employment loss on the earning power of the households to which assistance is made available under this section.

(3) Nothing in this subsection shall be constructed as amending or otherwise changing the provisions of the Food Stamp Act of 1964, as amended, except as they relate to the availability of food stamps in such an employment loss.

(d) The Secretary of Labor is authorized and directed to provide reemployment assistance services under other laws of the United States to any such individual so unemployed. As one element of such reemployment assistance services, such Secretary shall provide to any such unemployed individual who is unable to find reemployment in a suitable position within a reasonable distance from home, assistance to relocate in another area where such employment is available. Such assistance may include reasonable costs of seeking such employment and the cost of moving his family and household to the location of his new employment.

(e) (1) The President acting through the Small Business Administration, is authorized and directed to make loans (which for purposes of this subsection shall include participations in loans) to aid in financing any project in the United States for the conduct of activities or the acquisition, construction, or alteration of facilities (including machinery and equipment) required by the administration or enforcement of this Act, for applicants both private and public (including Indian tribes), which have been approved for such assistance by an agency or instrumentality of the State or political subdivision in which the project to be financed is located, and which agency or instrumentality (including units of general purpose local government) is directly concerned with problems of economic development in such State or subdivision, and which have been certified by such agency or instrumentality as requiring the loan successfully to remain in operation or at previous levels of employment.

(2) Financial assistance under this section shall be on such terms and conditions as the President determines, except that—

(A) no loan shall be made unless it is determined that there is reasonable assurance of repayment;

(B) no loan, including renewals or extension thereof, may be made hereunder for a period exceeding thirty years;

(C) loans made shall bear interest at a rate determined by the Secretary of the Treasury but not more than 3 per centum per annum;

(D) loans shall not exceed the aggregate cost to the applicant of acquiring, constructing, or altering the facility or project;

(E) the total of all loans to any single applicant shall not exceed $1,000,000; and

(F) the facility or project has been certified by the regulatory authority as necessary to comply with the requirements of this Act.

(f) Where the loss, curtailment, removal, or closing of any industrial or commercial facility resulting from the administration and enforcement of this Act causes an unusual and abrupt rise in unemployment in any area, community, or neighborhood, the Small Business Administration in the case of a nonagricultural enterprise and the Farmers Home Administration in the case of an agricultural enterprise, are authorized to provide any industrial, commercial, agricultural, or other enterprise, which has the potential to be a major source of employment for a substantial period of time in such area, a loan in such amount as may be necessary to enable such enterprise to assist in restoring the economic viability of such area, community, or neighborhood. Loans authorized by this section shall be made without regard to limitations on the size of loans which may otherwise be imposed by any other provision of law or regulation promulgated pursuant thereto.

(g) The President is authorized to make grants to any local government which, as a result of the administration and enforcement of this Act, has suffered a substantial loss of total revenue (including both real and personal property tax revenue). Grants made under this section may be made for the tax year in which the loss occurred and for each of the following two tax years. The grant for any tax year shall not exceed the difference between the annual average of all revenues received by the local government during the three-tax-year period immediately preceding the tax year in which such loss occurred and the actual revenue received by the local government for the tax year in which the loss occurred and for each of the two tax years following such loss but only if there has been no reduction in the tax rates and the tax assessment valuation factors of the local government. If there has been a reduction in the tax rates or the tax assessment valuation factors then, for the purpose of determining the amount of a grant under this section for the year or years when such reduction is in effect, the President shall use the tax rates and tax assessment valuation factors of the local government in effect at the time of such loss without reduction, in order to determine the revenues which would have been received by the local government but for such reduction.

(h) Any owner or operator of a surface coal mine, or employee (or former employee) of a surface coal mine, who would otherwise be eligible for assistance under this section, in lieu of such assistance may utilize the preference accorded in section 715 of this Act in receiving contracts or employment in the conduct of reclamation activities authorized by section 405 of this Act.

(i) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section.

(j) The Secretary shall report to the Congress on the implementation of this section not later than thirty months after the enactment of this Act, and annually thereafter. The report required by this subsection shall include an estimate of the funds which would be necessary to implement this section in each of the succeeding three years.

(k) The Secretary shall report to the Congress not later than July 1, 1976, on the impact of the administration and enforcement of this Act on employees and owners or operators of firms with gross capital values of less than $500,000, together with a recommendation on a program granting relief to such employees and owners or operators for losses in capital value sustained as a consequence of the administration and enforcement of this Act.

TITLE VIII—STATE MINING AND MINERAL RESOURCES RESEARCH INSTITUTE

AUTHORIZATION OF STATE ALLOTMENTS TO INSTITUTES

SEC. 801. (a) There are authorized to be appropriated to the Secretary of the Interior sums adequate to provide for each participating State $200,000 for fiscal year 1975, $300,000 for fiscal year 1976, and $400,000 for each fiscal year thereafter for five years, to assist the States in carrying on the work of a competent and qualified mining and mineral resources research institute, center, or equivalent agency (hereinafter referred to as "institute") at one public college or university at the State, which has in existence at the time of enactment of this title a school, division, or department conducting a program of substantial instruction and research in mining or minerals extraction or beneficiation engineering or which establishes such a school, division, or department subsequent to the enactment of this title and which school, division, or department shall have been in existence for at least two years. The Advisory Committee on Mining and Minerals Resources Research as created by this title shall determine a college or university to have an eligible school, division,

or department conducting a program of substantial instruction and research in mining or minerals extraction or beneficiation engineering wherein education and research in the minerals engineering fields are being carried out and wherein at least five full-time permanent faculty members are employed: *Provided*, That—

(1) such moneys when appropriated shall be made available to match, on a dollar-for-dollar basis, non-Federal funds which shall be at least equal to the Federal share to support the institute;

(2) if there is more than one such eligible college or university in a State, funds under this title shall, in the absence of a designation to the contrary by act of the legislature of the State, be paid to one such college or university designated by the Governor of the State; and

(3) where a State does not have a public college or university with an eligible school, division, or department conducting a program of substantial instruction and research in mining or minerals extraction or beneficiation engineering, said advisory committee may allocate the States' allotment to one private college or university which it determines to have an eligible school, division, or department as provided herein.

(b) It shall be the duty of each such institute to plan and conduct and/or arrange for a component or components of the college or university with which it is affiliated to conduct competent research, investigations, demonstrations, and experiments of either a basic or practical nature, or both, in relation to mining and mineral resources and to provide for the training of mineral engineers and scientists through such research, investigations, demonstrations, and experiments. Such research, investigations, demonstrations, experiments, and training may include, without being limited to exploration; extraction; processing; development; production of mineral resources; mining and mineral technology; supply and demand for minerals; conservation and best use of available supplies of minerals; the economic, legal, social engineering, recreational, biological, geographic, ecological, and other aspects of mining, mineral resources, and mineral reclamation, having due regard to the interrelation on the natural environment, the varying conditions and needs of the respective States, to mining and mineral resources research projects being conducted by agencies of the Federal and State governments, and other, and to avoid any undue displacement of mineral engineers and scientists elsewhere engaged in mining and mineral resources research.

RESEARCH FUNDS TO INSTITUTES

SEC. 802. (a) There is further authorized to be appropriated to the Secretary of the Interior for fiscal year 1975, and six succeeding fiscal years thereafter the sum of $5,000,000 annually, which shall remain available until expended. Such moneys when appropriated shall be made available to institutes to meet the necessary expenses of specific mineral research and demonstration projects of industrywide application, which could not otherwise be undertaken, including the expenses of planning and coordinating regional mining and mineral resources research projects by two or more institutes. No portion of any grant under this section shall be applied to the acquisition by purchase or lease of any land or interests therein or the rental, purchase, construction, preservation, or repair of any building.

(b) Each application for a grant pursuant to subsection (a) of this section shall, among other things, state the nature of the project to be undertaken, the period during which it will be pursued, the qualifications of the personnel who will direct and conduct it, the estimated costs, the importance of the project to the Nation, region, or State concerned, and its relation to other known research projects theretofore pursued or being pursued, and the extent to which it will provide opportunity for the training of mining and mineral engineers and scientists, and the extent of participation by nongovernmental sources in the project. No grant shall be made under said subsection (a) except for a project approved by the Secretary of the Interior and all grants shall be made upon the basis of merit of the project, the need for the knowledge which it is expected to produce when completed, and the opportunity it provides for the training of individuals as mineral engineers and scientists.

FUNDING CRITERIA

SEC. 803. (a) Sums available to institutes under the terms of sections 801 and 802 of this title shall be paid at such times and in such amounts during each fiscal year as determined by the Secretary, and upon vouchers approved by him. Each institute shall set forth its plan to provide for the training of individuals as mineral engineers and scientists under a curriculum appropriate to the field of mineral resources and mineral engineering and related fields; set forth policies and procedures which assure that Federal funds made available under this title for any fiscal year will supplement and, to the extent practicable, increase the level of funds that would, in the absence of such Federal funds, be made available for purposes of this title, and in no case supplant such funds; have an officer appointed by its governing authority who shall receive and account for all funds paid under the provisions of this title and shall make an annual report to the Secretary on or before the first day of September of each year, on work accomplished and the status of projects underway, together with a detailed statement of the amounts received under any provisions of this title during the preceding fiscal year, and of its disbursements on schedules prescribed by the Secretary. If any of the moneys received by the authorized receiving officer of any institute under the provisions of this title shall by any action or contingency be found by the Secretary to have been improperly diminished, lost, or misapplied, it shall be replaced by the State concerned and until so replaced no subsequent appropriation shall be allotted or paid to any institute of such State.

(b) Moneys appropriated pursuant to this title, in addition to being available for expenses for research, investigations, experiments, and training conducted under authority of this title, shall also be available for printing and publishing the results thereof and for administrative planning and direction. The institutes are hereby authorized and encouraged to plan and conduct programs under this title in cooperation with each other and with such other agencies and individuals as may contribute to the solution of the mining and mineral resources problems involved, and moneys appropriated pursuant to this title shall be available for paying the necessary expenses of planning, coordinating, and conducting such cooperative research.

DUTIES OF THE SECRETARY

SEC. 804. The Secretary of the Interior is hereby charged with the responsibility for the proper administration of this title and, after full consultation with other interested Federal agencies, shall prescribe such rules and regulations as may be necessary to carry out its provisions. The Secretary shall furnish such advice and assistance as will best promote the purposes of this title, participate in coordinating research initiated under this title by the institutes, indicate to them such lines of inquiry as to him seem most important, and encourage and assist in the establishment and maintenance of cooperation by and between the institutes and between them and other research organizations, the United States Department of the Interior, and other Federal establishments.

On or before the 1st day of July in each year after the passage of this title, the Secretary shall ascertain whether the requirements of section 803(a) have been met as to each State.

The Secretary shall make an annual report to the Congress of the receipts, expenditures, and work of the institutes in all States under the provisions of this title. The Secretary's report shall indicate whether any portion of an appropriation available for allotment to any State has been withheld and, if so, the reasons therefor.

AUTONOMY

SEC. 805. Nothing in this title shall be construed to impair or modify the legal relationship existing between any of the colleges or universities under whose direction an institute is established and the government of the State in which it is located, and nothing in this title shall in any way be construed to authorize Federal control or direction of education at any college or university.

AUTHORIZATION FOR OTHER RESEARCH PROGRAMS

SEC. 806. There is authorized to be appropriated annually for seven years to the Secretary of the Interior the sum of $10,000,000 in fiscal year 1975, said sum increased by $2,000,000 each fiscal year thereafter for six years, from which the Secretary shall make grants, contracts, matching, or other arrangements with education institutions, private foundations, or other institutions; with private firms and individuals; and with local, State, and Federal Government agencies, to undertake research into any aspects of mining and mineral resources problems related to the mission of the Department of the Interior, which may be deemed desirable and are not otherwise being studied. The Secretary shall insofar as it is practicable, utilize the facilities of institutes designated in section 801 of this title to perform such special research, authorized by this section, and shall select the institutes for the performance of such special research on the basis of the qualifications without regard to race or sex of the personnel who will conduct and direct it, the nature of the facilities available in relation to the particular needs of the research project, special geographic, geologic, or climatic conditions within the immediate vicinity of the institute in relation to any special requirements of the research project, and the extent to which it will provide opportunity for training individuals as mineral engineers and scientists. The Secretary may designate and utilize such portions of the funds authorized to be appropriated by this section as he deems appropriate for the purpose of providing scholarships, graduate fellowships, and postdoctoral fellowships.

MISCELLANEOUS PROVISIONS

SEC. 807. (a) The Secretary of the Interior shall obtain the continuing advice and cooperation of all agencies of the Federal Government concerned with mining and mineral resources of State and local governments, and of private institutions and individuals to assure that the programs authorized in this title will supplement and not duplicate established mining and minerals research programs, to stimulate research in otherwise neglected areas, and to contribute to a comprehensive, nationwide program of mining and minerals research, having due regard for the protection and conservation of the environment. The Secretary shall make generally available information and reports on projects completed, in progress, or planned

under the provisions of this title, in addition to any direct publication of information by the institutes themselves.

(b) Nothing in this title is intended to give or shall be construed as giving the Secretary of the Interior any authority or surveillance over mining and mineral resources research conducted by any other agency of the Federal Government, or as repealing, superseding, or diminishing existing authorities or responsibilities of any agency of the Federal Government to plan and conduct, contract for, or assist in research in its area of responsibility and concern with mining and mineral resources.

(c) Contracts or other arrangements for mining and mineral resources research work authorized under this title with an institute, educational institution, or nonprofit organization may be undertaken without regard to the provisions of section 3684 of the Revised Statutes (31 U.S.C. 529) when, in the judgment of the Secretary of the Interior, advance payments of initial expense are necessary to facilitate such work.

(d) No part of any appropriated funds may be expended pursuant to authorization given by this title for any scientific or technological research or development activity unless such expenditure is conditioned upon provisions determined by the Secretary of the Interior, with the approval of the Attorney General, to be effective to insure that all information, uses, products, processes, patents, and other developments resulting from that activity will (with such exception and limitation as the Secretary may determine, after consultation with the Secretary of Defense, to be necessary in the interest of the national defense) be made freely and fully available to the general public. Nothing contained in this section shall deprive the owner of any background patent relating to any such activities of any rights which that owner may have under that patent.

CENTER FOR CATALOGING

SEC. 808. The Secretary shall establish a center for cataloging current and projected scientific research in all fields of mining and mineral resources. Each Federal agency doing mining and mineral resources research shall cooperate by providing the cataloging center with information on work underway or scheduled by it. The cataloging center shall classify and maintain for public use a catalog of mining and mineral resources research and investigation projects in progress or scheduled by all Federal agencies and by such non-Federal agencies of government, colleges, universities, private institutions, firms and individuals as may make such information available.

INTERAGENCY COOPERATION

SEC. 809. The President shall, by such means as he deems appropriate, clarify agency responsibility for Federal mining and mineral resources research and provide for interagency coordination of such research, including the research authorized by this title. Such coordination shall include—

(a) continuing review of the adequacy of the Government-wide program in mining and mineral resources research,

(b) identification and elimination of duplication and overlap between two or more agency programs,

(c) identification of technical needs in various mining and mineral resources research categories,

(d) recommendations with respect to allocation of technical effort among the Federal agencies,

(e) review of technical manpower needs and findings concerning management policies to improve the quality of the Government-wide research effort, and

(f) actions to facilitate interagency communication at management levels.

ADVISORY COMMITTEE

SEC. 810. (a) The Secretary of the Interior shall appoint an Advisory Committee on Mining and Mineral Research composed of—

(1) the Director, Bureau of Mines, or his delegate, with his consent;

(2) the Director of the National Science Foundation, or his delegate, with his consent;

(3) the President, National Academy of Sciences, or his delegate, with his consent;

(4) the President, National Academy of Engineering, or his delegate, with his consent;

(5) the Director, United States Geological Survey, or his delegate, with his consent; and

(6) not more than four other persons who are knowledgeable in the fields of mining and mineral resources research, at least one of whom shall be a representative of working coal miners.

(b) The Secretary shall designate the Chairman of the Advisory Committee. The Advisory Committee shall consult with, and make recommendations to, the Secretary of the Interior on all matters involving or relating to mining and mineral resources research and such determinations as provided in this title. The Secretary of the Interior shall consult with, and consider recommendations of, such Committee in the conduct of mining and mineral resources research and the making of any grant under this title.

(c) Advisory Committee members, other than officers or employees of Federal, State, or local governments, shall be, for each day (including traveltime) during which they are performing committee business, entitled to receive compensation at a rate fixed by the Secretary, but not in excess of the maximum rate of pay for grade GS–18 as provided in the General Schedule under section 5332 of title 5 of the United States Code, and shall, notwithstanding the limitations of sections 5703 and 5704 of title 5 of the United States Code, be fully reimbursed for travel subsistence and related expenses.

Amend the title so as to read: "An Act 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."

Mr. MANSFIELD. Mr. President, I move that the Senate disagree to the amendments of the House of Representatives to the bill (S. 425), request a conference with the House on the disagreeing votes thereon; and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. JACKSON, Mr. METCALF, Mr. JOHNSTON, Mr. HASKELL, Mr. NELSON, Mr. FANNIN, Mr. HANSEN, and Mr. BUCKLEY conferees on the part of the Senate.

ORDER OF BUSINESS

The PRESIDING OFFICER. Who yields time?

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

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

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the vote, instead of occurring not later than 2 o'clock, occur at the hour of 2:15 p.m., this afternoon.

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

Mr. MANSFIELD. 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. 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.

TRIBUTE TO THE LATE SENATOR GEORGE L. RADCLIFFE, OF MARYLAND

Mr. MATHIAS. Mr. President, I thank the Senator from Illinois for yielding.

Mr. President, it is with great sadness that I announce to the Senate the death of George L. Radcliffe of Maryland. Senator Radcliffe died yesterday in Baltimore in the 97th year of his life. He served with distinction in the Senate from 1934 to 1946 and was a positive influence here during those years.

As I recall my long friendship with Senator Radcliffe and with his family, I recognize the strong and unusual traits that stamped his character. On the one hand, he was a serious man. He approached the varied responsibilities life brought him with industry and intelligence. He was one of the few Members of the Senate who held a doctor's degree because he earned it, rather than becoming a doctor the easy way by accepting an honorary degree.

In spite of his serious approach, he never lost a sense of gaiety and joy. He was a cheerful figure and always broke into a smile on every social encounter. He loved a party and went to many of them. He loved to dance and could be seen in ballrooms into his ninth decade. As a candidate and as a Senator, he entered so spontaneously into every kind of social and political gathering so that former Mayor Thomas D'Alesandro, Jr., of Baltimore, affectionately gave him the nickname "Bojangles," which speaks well of his warmth, his humor, and his lack of self-consciousness or self-importance. He enjoyed himself and he was good company.

George Radcliffe's service in the Senate continued a long tradition of service to Maryland and the Nation. One of his lifelong interests was his farm in Dorchester County which had been in his family since 1666. His preoccupation with history was rooted in his own traditions and the fascinating lore of the Eastern Shore.

I extend my sympathy to his son and daughter-in-law, George and August, and their children. I ask unanimous consent that the following article contained in the Baltimore Sun be printed in the RECORD.

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

[From the Baltimore Sun, June 30, 1974]

GEORGE L. RADCLIFFE DIES; FORMER U.S. SENATOR WAS 96

George L. Radcliffe, former United States Senator from Maryland and surety company official who was active in civic and historic causes, died yesterday at Keswick after breaking his hip June 29.

Senator Radcliffe, who was 96, had recently been living with his son at 300 Club road.

He had been elected to the Senate in 1934 and was defeated in a primary campaign for a third term in 1946.

A member of the board of the Fidelity and Deposit Company, he had served as third vice president and chairman of the executive committee of the surety firm.

FRIEND OF ROOSEVELT

At his death, he was chairman of the board of the Maryland Historical Society, which he had headed from 1937 until 1965.

A friend of President Franklin D. Roosevelt, since the days when they were both officials of the same surety firm, Mr. Radcliffe none the less opposed the President in his bids to pack the Supreme Court and to unseat the late Senator Millard E. Tydings.

In addition to other committee posts, Senator Radcliffe headed the Merchant Marine Committee and was praised yesterday by Helen Delich Bentley, chairman of the Federal Maritime Commission.

She described him as the "chief architect and author of the Merchant Marine Act of 1936, which still stands today as the keystone and foundation upon which our maritime laws and our merchant marine function."

A native of Lloyds, in Dorchester county, Senator Radcliffe began his career as a teacher serving as principal of the Cambridge High School in 1900 and as a teacher at the Baltimore City College from 1901 to 1902. He was made an honorary member of the Class of 1905.

DOCTORATE FROM HOPKINS

He obtained a doctorate of philosophy from the Johns Hopkins University in 1900 and a law degree from the University of Maryland in 1903.

That same year, he began working as a lawyer for the American Bonding Company and in 1913 became a vice president and director of the Fidelity and Deposit Company after the two firms merged.

His first political post was appointive, receiving a post on the state liquor license board in 1916 and being named Secretary of State three years later.

He managed political campaigns for governors, presidents and congressmen, most recently serving in 1960 as a congressional campaign manager and as a committee head in the state in the presidential election.

In the late 1940's, he served on the city's airport commission.

In 1966, he said, speaking of the need for persuasion rather than force in government, "I deplore this tendency to pass a law about anything and then hit people over the head with it. After all, if you are going to do something, is it better to do it because you are afraid of being punished or because you think it's right?"

In addition to his offices in the Historical Society, which will be closed tomorrow because of his death, he had been active in other historic and preservationist causes.

In 1924, he served as chairman of the committee that preserved Baltimore's Shot Tower.

He had also headed the Grace Foundation which restored Grace Episcopal Church and the Chapel of Ease, on Taylors Island, and was a vestryman of Trinity Episcopal Church, at Church Creek, and was active in its restoration.

In 1923, he was named president of the Eastern Shore Society.

From 1961 until 1965, he was chairman of the state's Civil War Centennial Commission. In 1961, he was appointed to the Maryland Historical Trust.

He had also been active in the National Foundation for Infantile Paralysis, beginning in 1934. He served as head of both the Baltimore and Maryland chapters and in 1953 was given its Award of Merit.

In 1962, he was named to the National Founders Board of the Salk Institute for Biological Studies.

He also was elected president of the University Club in 1953 and was cited in 1959 by the National Conference of Christians and Jews.

A runner on a team that won the Penn Relays while he was a Hopkins student, he still jogged on the roof of the Fidelity Building at the age of 80.

Other interests included a collection of books of Christmas lore and the farm at Lloyds which had been in his family since 1663.

Two years ago, he was presented with a working replica of a windmill on the farm property, as a birthday present.

His wife, the former Mary Marriott, died in 1933.

He is survived by a son, George M. Radcliffe, of Baltimore, four grandchildren and one great-grandson.

Funeral services will be held at 10 A.M., tomorrow at the Episcopal Church of the Incarnation, University parkway and St. Paul street, followed at 1 P.M., by graveside services at the Cambridge Cemetery, Cambridge, Md.

Mr. BEALL. Mr. President, it is with regret that I rise to inform my colleagues of the death of former Senator George Lovick Radcliffe. Senator Radcliffe was born in the small town of Lloyds on Maryland's Eastern Shore. He was a graduate of the Cambridge, Md., Seminary, 1893; the Johns Hopkins University, 1897; and the University of Maryland Law Department, 1903. His early career centered around the field of education but his interest in politics soon prevailed and he was to serve in numerous governmental positions on the State and national level. As an ardent Democrat, he campaigned actively for the candidates of his party.

In 1934 he ran successfully for a seat in the U.S. Senate, and he was reelected in 1940.

During his 12 years in the Senate, George Radcliffe was a close friend and confidant of President Roosevelt. In spite of this friendship, Senator Radcliffe had the courage to oppose Franklin D. Roosevelt in the famous court packing debate and the President's efforts to unseat the late Senator Millard E. Tydings in the Democratic primary of 1938.

Mr. President, when my late father came to the House of Representatives in January of 1943, he served alongside Senator Radcliffe for 4 years. They became good friends and worked closely together on legislation of interest to Maryland. I got to know Senator Radcliffe when I was a young man and I, like my father, came to cherish his friendship.

Senator Radcliffe's service in the Senate spanned a difficult period in our Nation's history. The Great Depression and the Second World War put our Nation's institutions and will to a severe test. We came through the turbulence of the 1930's and 1940's because of the efforts of men like George L. Radcliffe. Senator Radcliffe, who died yesterday at the age of 96, was a solid, able, and decent man who served his State and his Nation well. Mrs. Beall and I have joined our fellow Marylanders in extending our sympathy to the Radcliffe family.

Mr. President, this morning's Washington Post carried an article entitled "George L. Radcliffe Dies at 96," and I ask unanimous consent that this article be printed in the RECORD at the conclusion of my remarks. It is my understanding that a similar article entitled "George L. Radcliffe Dies; Former U.S. Senator was 96," which appeared in the Baltimore Sun this morning has also been inserted in the RECORD by my colleague, Senator MATHIAS.

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

GEORGE L. RADCLIFFE DIES AT 96

(By Martin Weil)

George L. Radcliffe, a lawyer, scholar, businessman and indefatigable amateur athlete who served 12 years as United States senator from Maryland, died yesterday at his Baltimore home. He was 96.

Mr. Radcliffe, a Democrat, served for 10 of his 12 Senate years (from 1935 to 1947) during the administration of an old personal friend, but sometime political opponent, Franklin D. Roosevelt.

No cause of death was announced last night. Mr. Radcliffe had been bedridden in his home since July 12 after suffering a fractured hip.

A member of a championship mile relay team at Johns Hopkins University in 1898, Mr. Radcliffe had continued running into his 80s, and despite the infirmities that began to arrive in his 90s, remained relatively active.

A fall a few years ago required him to use a cane, but did not prevent him from walking. His eyes were up to any task but reading.

"It seems tragic that I can't read," he told an interviewer last year. "But I read for 90 years and maybe that's enough."

In his 96 years, the one-time Eastern Shore farmboy received a Ph.D. from Johns Hopkins, became a high school principal, won a law degree, wrote a book of history, became first vice president of the Fidelity and Deposit Co. and president of the American Bonding Co.

In addition, he entered actively into the rough an tumble world of Maryland politics. However, his first posts were appointive. Gov. Emerson Harrington named him as Maryland's secretary of state in 1919.

It was not until 1934 that he made his first run for office. At the age of 56 he won his first campaign—for the U.S. Senate.

"Roosevelt got me into it," he said in a recent interview. "They," he added in an apparent reference to the President and his advisers "wanted me to run. I told them I wouldn't but, but I did. They thought I'd help the ticket."

Mr. Radcliffe met Roosevelt when FDR had taken a job as an officer of the Fidelity firm in 1921 after a political defeat. Mr. Radcliffe was nominally Roosevelt's superior and the two became friends.

After serving as chairman of FDR's presidential campaign in Maryland in 1932, Mr.

Radcliffe was named regional director for seven states and the District of Columbia for the Public Works Administration.

After Mr. Radcliffe took his seat in the Senate in 1935, there was speculation that he might be FDR's spokesman in the upper chamber.

However, Mr. Radcliffe scoffed at the idea. Although he won a reputation in the Senate for championing the right of needy persons to obtain work relief support, he was a quiet, unassuming man who seldom took the floor.

In addition, he proved to be an opponent of his old friend, the President, on such crucial questions as the Supreme Court-packing bill and the third term issue.

When Mr. Radcliffe's career in elective office was ended by his defeat by Herbert R. O'Conor in the Democratic primary in 1946, he returned to the bonding business and civic activities.

He also continued to play a role in politics in campaigns of others.

During an interview late last year Mr. Radcliffe was asked whether politicians were any more dishonest than they used to be.

"I doubt it," he said, and did not elaborate.

When he was 90, two men broke into his office, threatened him with a knife and demanded that he open the safe. He refused, and they choked him and stole the gold watch he won at the Penn Relays in 1898.

A duplicate was made and presented to him at a banquet in 1971.

"I don't think I've ever seen him happier," his son said.

In addition to his son, George, he is survived by four grandchildren and a great grandchild. His wife died in 1963.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Hackney, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate 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; and that the House recedes from its disagreement to the amendment of the Senate numbered 56 to the aforesaid bill, and concurs therein with an amendment, in which it requests the concurrence of the Senate.

The message also announced that, pursuant to the provisions of section 2, Senate Concurrent Resolution 85, 93d Congress, Mr. DENT, Mrs. BOGGS, Mr. SCHNEEBELI, and Mr. MCDADE were appointed as members of the House delegation to represent the Congress of the United States at ceremonies in Carpenters' Hall, Philadelphia, Pa., on October 14, 1974, in commemoration of the 200th anniversary of the First Continental Congress.

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

H.R. 15643. An act to reorganize public postsecondary education in the District of Columbia, establish a Board of Trustees, authorize and direct the Board of Trustees to consolidate the existing local institutions of public postsecondary education into a single Land-Grant University of the District of Columbia, direct the Board of Trustees to administer the University of the District of Columbia, and for other purposes; and

H.R. 15791. An act to amend section 204(g) of the District of Columbia Self-Government and Governmental Reorganization Act, and for other purposes.

ENROLLED BILL SIGNED

The message also announced that the Speaker had affixed his signature to the enrolled bill (H.R. 15461) to secure to the Congress additional time in which to consider the proposed amendments to the Federal Rules of Criminal Procedure which the Chief Justice of the United States Supreme Court transmitted to the Congress on April 22, 1974; and it was signed by the Acting President pro tempore (Mr. ALLEN).

HOUSE BILLS REFERRED

The following bills were read twice by their titles and referred to the Committee on the District of Columbia:

H.R. 15643. An act to reorganize public postsecondary education in the District of Columbia, establish a Board of Trustees, authorize and direct the Board of Trustees to consolidate the existing local institutions of public postsecondary education into a single Land-Grant University of the District of Columbia, direct the Board of Trustees to administer the University of the District of Columbia, and for other purposes; and

H.R. 15791. An act to amend section 204(g) of the District of Columbia Self-Government and Governmental Reorganization Act, and for other purposes.

RECESS UNTIL 2:10 P.M.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate stand in recess until the hour of 2:10 p.m.

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

Accordingly, at 1:56 p.m. the Senate took a recess until 2:10 p.m., at which time the Senate reassembled when called to order by the Presiding Officer (Mr. HELMS).

Mr. STEVENSON. Mr. President.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. STEVENSON. Is there an order for a vote on the Hartke amendment?

The PRESIDING OFFICER. At 2:15.

Mr. STEVENSON. Mr. President, the amendment offered by the Senator from Indiana is addressed to a subject which has been considered at great length in the Banking Committee.

I intend to make a motion to table that amendment before the hour of 2:15.

I do not think it is necessary to repeat the argument which has been made. I will make the motion not because of lack of sympathy for the steel industry and in particular the foundries which depend on ferrous scrap—ferrous scrap is in very short supply—but because the committee is strongly of the opinion that with the monitoring provisions in S. 3792 and the new standards for the imposition of export controls the Department of Commerce will be in a far better position to provide relief in this and all other cases of shortages.

I believe the committee is of the strong feeling that that is a far better way to proceed administratively rather than by legislating ad hoc export controls for this commodity or for any other commodity.

So unless, Mr. President, the other Members want to address themselves to the subject in the short time that remains, I will make that motion to table.

The PRESIDING OFFICER. The question is on the motion to table.

Mr. STEVENSON. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on the agreeing to the motion to table. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Minnesota (Mr. HUMPHREY), is absent on official business.

I further announced that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY), would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Kentucky (Mr. COOK), the Senator from Hawaii (Mr. FONG), and the Senator from Maryland (Mr. MATHIAS) are necessarily absent.

The result was announced—yeas 70, nays 26, as follows:

[No. 334 Leg.]

YEAS—70

Abourezk	Domenici	Montoya
Aiken	Eastland	Moss
Allen	Fannin	Muskie
Baker	Fulbright	Nelson
Bartlett	Goldwater	Nunn
Beall	Griffin	Packwood
Bellmon	Gurney	Pastore
Bennett	Hansen	Pearson
Bentsen	Hart	Percy
Bible	Haskell	Proxmire
Biden	Hatfield	Ribicoff
Brock	Hathaway	Roth
Brooke	Hollings	Sparkman
Burdick	Hruska	Stafford
Byrd, Harry F., Jr.	Inouye	Stennis
Cannon	Jackson	Stevens
Chiles	Javits	Stevenson
Church	Johnston	Taft
Clark	Kennedy	Talmadge
Cotton	McClure	Thurmond
Cranston	McGee	Tower
Curtis	McGovern	Tunney
Dole	McIntyre	Young
	Mondale	

NAYS—26

Bayh	Helms	Pell
Buckley	Huddleston	Randolph
Byrd, Robert C.	Hughes	Schweiker
Case	Long	Scott, Hugh
Dominick	Magnuson	Scott, William L.
Eagleton	Mansfield	Symington
Ervin	McClellan	Weicker
Gravel	Metcalf	Williams
Hartke	Metzenbaum	

NOT VOTING—4

Cook	Humphrey	Mathias
Fong		

So the motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senate will be in order. The Senate cannot and will not proceed until order is restored. Senators will please take their conversations to the cloakroom.

The Senator may proceed.

INCREASED U.S. PARTICIPATION IN THE INTERNATIONAL DEVELOPMENT ASSOCIATION

Mr. McCLURE. Mr. President, I ask unanimous consent that the action by

the Senate in concurring in the House amendments to S. 2665 on July 25 be vitiated.

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

Mr. McCLURE. Mr. President, I move to concur in the House amendments with an amendment which is at the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read the amendment, as follows:

On page 2, line 4, strike out "(b) No rule", and insert "(b) No provision of any law in effect on the date of enactment of this Act, and no rule, . . ."

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Idaho.

The motion was agreed to.

Later in the day the following proceedings were had on this matter.

Mr. HUMPHREY. There are those of us here that are very much concerned over action taken earlier today on S. 2665, which is the legislation relating to the International Development Agency, and there was a motion made to amend that legislation.

I would like to ask unanimous consent that the papers on S. 2665 be held pending further disposition by the Senate.

Mr. JAVITS. Mr. President, I took an active part in the proceedings by which this bill was passed last Thursday. We took the House bill, though we were violently against some parts of it, expressly because this matter had to be settled and concluded.

Now we find a new amendment has been suddenly added.

We went back to the House, which requires new vote on the part of the House, and we have not had a chance to pass on it here.

There may be some explanation which we do not understand now at all, but the unanimous-consent request, it seems to me, will hold the matter in a position so there should be no prejudice either to Senator McCLURE or to anyone else.

I do believe something has gone wrong here, and this would give us the opportunity to see that it is properly handled.

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

The Chair hears none and it is so ordered.

IMPEACHMENT TRIAL PRECEDENTS

Mr. CANNON. Mr. President, yesterday the Senate unanimously approved Senate Resolution 370, introduced by the distinguished majority leader on behalf of the joint leadership, which charges the Committee on Rules and Administration with the task of reviewing any and all existing rules and precedents that apply to impeachment trials, with a view to recommending any revisions which may be required if the Senate is called on to conduct such a trial.

The committee is instructed to report back no later than September 1, 1974 or on such earlier date as the majority or minority leader may designate.

Mr. President, I invite all Senators to study the existing rules on impeachment trials as set forth in the 1973 edition of the Senate Manual, beginning with section 100 on page 135, and I hope any Senator having changes to suggest or recommendations will communicate them to the Rules Committee at the earliest possible time.

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

Mr. MANSFIELD. When does the Rules Committee intend to start hearings on this resolution?

Mr. CANNON. Mr. President, the Rules Committee has a meeting scheduled for tomorrow. We will discuss this matter and, I presume, at that time it will be referred to the appropriate subcommittee of the Rules Committee, the Rules Subcommittee, and I would hope they would start action on this matter tomorrow afternoon.

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

Mr. CANNON. Yes.

Mr. JAVITS. Will the Rules Committee hear witnesses?

Mr. CANNON. I do not anticipate that the Rules Committee will hear witnesses. However, if some of the Senators advise us that they desire to present witnesses, we will consider that at that time.

Mr. JAVITS. I meant Senators themselves; will the Rules Committee hear a Senator who asks recognition with respect to the rules?

Mr. CANNON. There would be no question but what we would be happy to hear from Senators themselves.

Mr. JAVITS. All right.

Mr. MANSFIELD. If the Senator will yield, this is purely a Senate procedural matter.

Mr. CANNON. The Senator is correct. It is a Senate procedural matter.

Mr. MANSFIELD. Therefore, it would be advisable that only Senators appear as witnesses regarding their own rules.

Mr. CANNON. That is all I had reference to.

Mr. JAVITS. I am inclined to agree with the majority leader, and that is what I had in mind when I asked the question.

Mr. CANNON. I thank the Senator for yielding.

SCHOOL FARE SUBSIDY FOR SCHOOLCHILDREN WITHIN THE DISTRICT OF COLUMBIA

Mr. EAGLETON. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 3477.

The PRESIDING OFFICER laid before the Senate the amendment of the House of Representatives to the bill (S. 3477) to amend the Act of August 9, 1955, relating to school fare subsidy for transportation of schoolchildren within the District of Columbia, which was to:

Strike out all after the enacting clause, and insert: That section 2 of the Act entitled "An Act to provide for the regulation of fares for the transportation of schoolchildren in the District of Columbia", approved August 9, 1955 (D.C. Code, sec. 44–214a), as amended by an Act approved October 18, 1968, and by an Act approved August 11, 1971, is further amended by deleting "1974" and substituting "1977".

SEC. 2. Notwithstanding any other provision of law, or any rule of law, nothing in this Act (including the amendment made by this Act) shall be construed as limiting the authority of the Council of the District of Columbia to enact any act or resolution, after January 2, 1975, pursuant to the District of Columbia Self-Government and Reorganization Act with respect to any matter covered by this Act.

Mr. EAGLETON. Mr. President, I move the Senate concur in the amendment of the House of Representatives to S. 3477.

The motion was agreed to.

EXPORT ADMINISTRATION ACT AMENDMENTS OF 1974

The Senate continued with the consideration of the bill (S. 3792) to amend and extend the Export Administration Act of 1969.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized and he is entitled to be heard. Senators are asked to take their conversations to the cloakroom. The Senate cannot proceed until it is in order.

Mr. PROXMIRE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The second assistant legislative clerk read as follows:

Insert the following new title at the end thereof:

"TITLE II—REGULATION OF HOLDING COMPANY OBLIGATIONS

"SEC. 201. (a) Section 19(a) of the Federal Reserve Act (12 U.S.C. 461(a)) is amended by inserting after the word 'means' the following: 'and, regardless of the use of the proceeds'.

"(b) The sixth sentence of Section 18(g) of the Federal Deposit Insurance Act is amended by striking 'for the purpose of obtaining funds to be used in the banking business'.

"(c) Section 5B of the Federal Home Loan Bank Act (12 U.S.C. 1425b) is amended as follows:

"(1) by adding at the end of subsection (a) thereof the following new sentences: 'The provisions of this subsection shall apply, in the discretion of the Board, to an obligation issued by an affiliate of an institution which is an insured institution as defined in section 401(a) of the National Housing Act (12 U.S.C. 1724(a)) or is a member or nonmember building and loan, savings and loan, or homestead association, or cooperative bank, or member savings bank other than a savings bank insured under the Federal Deposit Insurance Act. The Board is authorized to define by regulation the terms used in this section.';

"(2) by striking 'institution subject to this section' in subsection (b) thereof and inserting 'person or organization'; and

"(3) by striking 'nonmember institution' and 'institution' in subsection (c) thereof and inserting 'person or organization' in both places."

Amend the title clause of the bill to read: "A bill to amend and extend the Export Administration Act of 1969, and for other purposes."

Mr. PROXMIRE. Mr. President, this amendment would clarify the authority

of the Federal Reserve Board to regulate notes issued by bank holding companies. The need for this clarifying amendment is prompted by the recent issuance of $650 million in notes issued by Citicorp, the parent holding company of the First National City Bank of New York. The rate of interest on these notes is set initially at 9.7 percent through June 1, 1976. The notes may be purchased in minimum denominations of $5,000. In effect, these notes are equivalent to a 2-year certificate of deposit issued by a commercial bank.

The PRESIDING OFFICER. The Senator will suspend. The Senate is not in order, and the Chair solicits the cooperation of Senators, and staff members, in particular, will take their conversations to the cloakroom. The Senator is entitled to be heard and the Chair will insist that he be heard.

The Senator from Wisconsin may proceed.

Mr. PROXMIRE. Under regulation Q, the rate of interest on 2-year bank certificates of deposit cannot exceed 6 percent. Thus by issuing the notes through the holding company rather than directly, the First National City Bank has discovered a method for subverting the entire purpose of regulation Q.

Mr. President, if this precedent is left unchallenged the housing industry will suffer a devastating blow. Housing is in a depression. Starts are down by over 500,000 units or by 25 percent. Not only has the small homebuilder who built 10, 50, 100, or 500 units going broke, the giants of the industry, Kaufman and Broad, Levitt & Sons, and the Larwin group, among others, are in serious financial straits.

Then pity the homebuyer. More than 70 percent of American families are now priced out of the new home market. And the fundamental and ovewhelming reasons for this are both the actions and inactions of the Government.

Interest rates are sky high. That has priced almost everyone out of the market.

Mr. PROXMIRE. And this will really put the final nail in the coffin in the view of the homebuilding industry itself and the savings and loan institutions.

But there is more to it than that.

First, the Federal Reserve Board refuses to do anything about the terrible consequences on housing of its policies. Tight money means a housing crunch. The Federal Reserve knows that. But they rigidly refuse to act to relieve the fact that housing takes the overwhelming burden of the tight money policy.

Second, HUD has acted in an irresponsible way during this period. Since January 1973 every major traditional housing program has been under moratorium. There has been only a trickle of housing. In the 1969–70 crunch, the fact that HUD was building subsidized housing prevented a rout. Now they have helped bring it about piling moratorium on top of high-interest rates and credit crunches. There is nothing they could do which is quite so stupid and quite so wrong as they have done.

In addition, they were very, very late in proposing any alternative program and the level of mismanagement at the Department has been the basic cause for the demise of some of their best programs.

Congress, too, has been inept. We have refused to hold HUD's feet to the fire. Our ability to force them to build subsidized housing was lost when we caved in to them on the FHA extension. The House has buckled under to the President's irresponsible threat of a veto of a broadly based housing program. And the cities and States are so anxious to get their community development and revenue-sharing money they are prepared to throw housing overboard.

And the President in saying he would veto a good housing bill also shares in the irresponsibility.

What we need is housing—conventional housing, public housing, homeownership programs, leased housing, and rehabilitated housing. We need them all.

What we need in this time of high-interest rates is some intelligent policy on the part of the Federal Reserve to ease the effects of tight money on housing. Chairman Burns refuses to think about that and ignores the problem almost entirely.

This is a crisis and we need action. I call upon the President, HUD, Congress, and the Federal Reserve to act and to act now before the housing depression brings on a general depression.

The magnitude of this issue is seen clearly in an article from the business section of last Sunday's New York Times entitled "This Housing Slump Cripples Even the Giants," by Robert A. Wright. I ask unanimous consent that it be printed in full at this point in the RECORD.

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

[From the New York Times, July 28, 1974]

THIS HOUSING SLUMP CRIPPLES EVEN THE GIANTS

(By Robert A. Wright)

LOS ANGELES.—A money crunch, home builders have learned, always hits their industry first. So the present home-building slump came as no surprise—except for one thing.

"The difference this time is a crisis in consumer confidence," says Eugene S. Rosenfeld. As president of Kaufman & Broad, Inc., the nation's most profitable publicly held homebuilding concern, he has closely examined what is generally conceded to be a depression in the housing industry.

"In the past money crunches there would be a temporary impact," Mr. Rosenfeld explained. "Now there is so much uncertainty on the part of consumers about big-ticket purchases that they are putting them off—at the same time that we have rapidly rising prices."

Every money crunch since the end of World War II has seriously affected the nation's home builders. Their fragmented industry ranges from one-man construction firms to giant national companies like Kaufman & Broad (pronounced to rhyme with "slowed"). It is involved across-the-board in land acquisition, architecture, construction, sales and finance.

This housing downturn is the worst anyone remembers. It has even hurt Kaufman & Broad, along with just about every other home builder in the nation.

In previous hard times for housing—notably during the 1969–70 recession—K. & B. was able to weather the storm, showing gains when most builders were reporting losses. Some people say it was because of magnificent management; others say it was because of magnified accounting. (Mr. Rosenfeld insists that no one has proved substantive accounting case against the company.)

Whatever the case, Kaufman & Broad is reeling from the present slump. Last month the company reported that earnings in its second fiscal quarter, ended May 31, plunged to $294,000, or 1 cent a share, from the year-earlier $5.4-million, or 32 cents a share.

Although sales edged up to $64.2-million, profit margins suffered because climbing interest rates discouraged home buying, forcing the company to carry unsold inventory. Also K. & B. was unable, in a soft market, to pass on increased costs to consumers.

A turnaround in housing that Mr. Rosenfeld foresaw in March, when a decline in interest rates appeared to be in the offing, is not likely to come until next year, he said recently.

If the wunderkind of homebuilding profitability is doing so poorly, how is the rest of the industry faring?

"Terrible," is the answer from Nathaniel Rogg, executive vice president of the National Association of Home Builders.

"This is far and away the worst since the Depression days," says Mr. Rogg, an economist who has been closely involved with the housing industry since arriving in Washington in 1934. "There is no light at the end of this tunnel—not given the current thrust of the Government's economic policy: tight money."

The squeeze on builders' profits began about a year ago when money-market rates began to rise along with the cost of building materials. Then the energy crisis and supply shortages disrupted the economies of the Western world, including housing operations. The gasoline scarcity also kept cars of prospective home hunters in their garages.

Last year saw several major home builders go into the red, including the huge ITT Levitt & Sons division of the International Telephone and Telegraph Corporation and the Los Angeles-based Larwin Group, Inc., a subsidiary of the CNA Financial Corporation.

I.T.T. is negotiating with William J. Levitt in an effort to sell back to him the Long Island-based building enterprise it acquired five years ago. And the top management of the Larwin Group, which reported a $3.1-million loss for this year's first quarter, has been almost entirely replaced in recent weeks.

The once high-flying United States Financial Corporation of San Diego, was forced into bankruptcy last year after it ran into accounting disagreements with the Securities and Exchange Commission. A number of apartment-house builders also went the bankruptcy route.

The pattern for this housing downturn is more or less typical of those in the postwar period. Inflation pumps up not only the price of goods but also the cost of money. Industry, seeking to expand with demand and perhaps to build inventories against further price increases, puts pressure on capital markets. Interest rates soar.

With rising rates in the short-term money market, funds are drained from the institutions that traditionally finance construction and mortgage loans—the mutual savings banks and the savings and loan associations. These lenders—limited by Government regulation as to the rates of interest they can offer savers—lose deposits to more attractive short-term money market investments. The cost of what mortgage money is available rises.

Commodity and labor inflation raises the price of houses (about 1 per cent a month in the last year), higher mortgage rates add to

the monthly payments and more families find they do not meet the financial qualifications to obtain a loan at any price.

Alan G. Bortel, Western director of research for the James Capel & Co. division of Winmill Securities, Inc., estimates that, for each one-point rise in mortgage rates, 250,000 of California's seven million families are dealt out of the housing markets. At the same time it costs builders dearly to carry completed but unsold housing.

This housing cycle involves an inflationary spiral of unprecedented severity, one that appears to be beyond the ability of economists to resolve. It certainly has yet to yield to the patented remedies.

Among these remedies, wage and price controls have been tried, tampered with, trampled on and abandoned. Restraining the money supply to dampen demand by making money tight, or expensive, is now being pursued. The other traditional remedies, a balanced Federal budget and a tax increase, cannot be tried now—there is not enough time in the case of the budget, and there is too much political apprehension in the case of taxes.

"I'm all for efforts to control inflation," says Mr. Rogg of the National Association of Home Builders. "You can hardly argue against motherhood. But you can argue that this inflation is not responsive to the classic remedies. This inflation is geo-political, caused 55 percent by the energy crisis and 30 per cent by food. How in hell can tight money help that?"

Noting that business loans rose 30 per cent in the first six months of this year (or 14.3 per cent, taking inflation into account), Mr. Rogg contends that inflation affects housing in a special way and that the housing sector therefore needs special help within the over-all economy. One problem is that, while money is available it is at a price too dear for long-term mortgage borrowers.

Few economists deny that there is tremendous pent-up demand for housing. People between 30 and 40 years old are the ones who form the most families and would like to buy the most homes. Swollen by the baby boom that followed World War II, this segment of the nation's population is expanding by five million people during this decade.

Housing economists have been saying for years that this demand will take an average of 2.5 million housing starts a year to satisfy. This is a rate reached only infrequently by an industry that expects well below 2 million starts this year. And some estimates of the 1974 total are as low as 1.5 million units.

Given all that, Mr. Rosenfeld of Kaufman & Broad is quick to say that he is "not depressed." He commented: "We're just not having a good year. I'm embarrassed and unhappy—not depressed. We'll have a good year next year, and we're working twice as hard to achieve that."

He declared: "We're still a very strong company. Our management is still intact. We have the largest net worth [$178-million] in the industry. We've got $30-million of unused bank credit. We've got pre-arranged mortgage financing to last us through the year."

The company Mr. Rosenfeld is talking about was founded 17 years ago in a rather casual way. Eli Broad, chairman, had become, at age 20, the youngest man ever to pass Michigan's C.P.A. examination. He started a private accounting practice in office space provided by Donald Kaufman, a young Detroit home builder. In January, 1957, the two men pooled $25,000 to form the Kaufman & Broad Building Company. They did well from the beginning, and Mr. Broad never turned back.

The company went public, moved its headquarters to Los Angeles in the booming southern California housing market and began to expand. Today Kaufman & Broad calls itself the "nation's largest multinational housing producer." It has 14 permanent divisions producing single-family housing in suburban areas around 58 cities in the United States, Canada, France and West Germany.

Another division is producing high-rise condominiums in New Jersey, and still another sells pre-cut houses nationally to individuals who own lots.

Kaufman & Broad Asset Management, Inc., managers for investors 7,205 tax shelter units in 55 states. The Sun Life Insurance Company of America, acquired in November, 1971, writes life, accident and health insurance policies and annuities and has been providing an increasingly larger share of company revenues and income. In the fiscal year ended last Nov. 30, Sun Life accounted for 16.6 per cent of total unconsolidated revenues of $317,041,000 and 29.8 per cent of gross income totaling $7,340,000.

Mr. Rosenfeld, like Mr. Broad a certified public accountant, estimates that Sun Life will provide 65 to 75 per cent of this year's pre-tax earnings.

The tousle-headed Mr. Rosenfeld, now 40 years old, joined the company in 1963 as controller of the Southern California division. By January, 1969, he had worked his way up to president.

Mr. Broad, also 40 years old, turned over the title of chief executive officer to Mr. Rosenfeld last January and, as chairman, devotes his working time to planning and overseeing Sun Life.

Mr. Kaufman has not been active in the company management for about five years, but he remains vice chairman of the board. Neither Mr. Broad nor Mr. Kaufman own a controlling interest in the company.

Mr. Rosenfeld's strategy now is one of working to tighten financial controls and increase profit margins. The company sold some of its mobile-home operations last year and is arranging to sell the rest. In the last fiscal quarter it sold its Leisure Industries vacation-home subsidiary. The deal reduced earnings by $2.8-million.

Criticism of the company's accounting methods (as well as those of other housing companies) still continues from some quarters but is dismissed by Mr. Rosenfeld as "nothing substantive."

"I'll stand by our accounting every time," he said. "First of all, we were a high flying stock, and a lot of this was just the kind of jibes one can expect in that situation. And then there was a lot of easy hindsight, where it was said, 'You see, they didn't make money on this and they had it on their balance sheet.'"

Kaufman & Broad is no high flyer these days. Its stock is trading below $4 a share on the New York Stock Exchange, where it once floated in the mid-50's. And Mr. Rosenfeld is tightening up financial control as part of his internal plan.

It is a matter of company growth that requires the new controls, said Mr. Rosenfeld.

"When we were smaller, we had a good feeling for what everybody was doing," he said. "I could tell whether they were making money, not by looking at the books but by seeing them in the field. Now it is more difficult front-line decisions."

The keystone of the new controls is a requirement that has division controllers reporting directly to the corporate controller at headquarters instead of reporting through division presidents, as was done previously.

"The reason for this is that we want purity of numbers," Mr. Rosenfeld said. "It's not a question of cheating—it's a question of shading. I don't want our division presidents to be accountants. I want them to be operating guys."

Mr. Rosenfeld said that management, not outside economic factors, has to take the blame for some of K. & B.'s problems. Asked for an example of how management goofed, Mr. Rosenfeld replied: "Too much inventory. We were looking to higher volume when we purchased most of this land in 1973."

The company is continuing to sell unneeded land, particularly in the Middle West, and some of it is being sold at a loss. But Mr. Rosenfeld said the company had not been forced into canceling or abandoning any projects.

Kaufman & Broad's operating policy is not to build on speculation but on orders filled from models. However, Mr. Rosenfeld acknowledged that, because of cancellations, the company has a total of some 175 completed unsold homes in several tracts on Long Island and another in New Jersey.

"We're selling them off about three or four a week now, and we're not lowering prices to do it," he said.

A retrenchment at Kaufman & Broad is not a case of "being desperate to get liquid, as one reporter wrote recently," said Mr. Rosenfeld. It is a matter of being well-positioned for what he sees as "a strong recovery year in 1975."

Some observers of the housing industry see its slump as a longer-term problem than Mr. Rosenfeld indicates it is.

It is difficult to generalize about the industry because much depends on local markets and because the industry is fragmented. Kaufman & Broad, for example, is among the biggest in the field but builds less than 1 per cent of all the housing in the United States. Most builders are small, privately held companies.

The National Association of Home Builders has 75,532 members, and many builders are not among them. But the association's Mr. Rogg is not alone in the belief that the housing industry needs special help.

Mr. Rogg declared: "We have not yet felt the full brunt of the situation. If the Administration continues its tight-money stance, the housing industry will need some mandatory allocation of credit, such as bank reserves against real estate or a direct credit control."

Otherwise, Mr. Rogg predicted, "the housing aspirations of Americans will have to be sacrificed for some time to come."

As the squeeze has intensified, there is increasing talk in the industry about extending mortgage terms to 40 or 50 years to lower monthly payments and to bring more families into the constantly inflating market.

There is renewed talk about variable interest-rate mortgages that would move up and down with the money market. But lenders are reluctant to offer such an instrument with rates so high, and experiments indicate that buyers dislike the idea when rates are low. And there is talk of additional subsidized Government aid.

But few observers expect much action on these fronts. Even if some help should come, few expect it to have much impact soon in the housing market.

Mr. Bortel of Winmill's James Capel division comments: "I don't know what kind of phoenix will rise from the ashes of the housing industry. Right now the silver-lining department is hard to find."

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the statement of Mr. Thomas R. Bomar, Chairman of the Federal Home Loan Bank Board be printed in the RECORD at this point.

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

STATEMENT OF THOMAS R. BOMAR ON H.R. 15869 BEFORE THE COMMITTEE ON BANKING AND CURRENCY

Mr. Chairman and Members of the Committee: I appreciate the opportunity on behalf of the Federal Home Loan Bank Board

to present its views on a bill "To amend the Bank Holding Company Act of 1956 to provide for the regulation of the issuance and sale of debt obligations by bank holding companies and their subsidiaries." While the effect of the bill is extremely broad, its apparent genesis and aim is to deal with proposed issuances of floating rate, low denomination, redeemable notes by bank holding companies to the general public.

The Board believes that the bill as introduced is broader than necessary to accomplish its intended purpose. The bill is too sweeping in that it would grant authority to regulate the use of the proceeds of these issuances, any term of these issuances, and the advertising, promotion and underwriting techniques to be employed in their issuance, distribution and sale. The Board also considers it inappropriate for this agency to become involved in such great detail with the regulation of commercial banks since the Congress by statute has given that responsibility to other financial regulatory agencies.

If the Committee intends to stop bank holding companies from issuing obligations that compete directly with savings accounts, it would appear that there are two alternative procedures which would be preferable. First, the Committee might declare by letter of its Chairman or by formal resolution of the House that the existing provisions of Section 19 of the Federal Reserve Act contain sufficient authority to subject bank holding company issuances to rate control limitations without regard to the use of proceeds. Second, the Committee might adopt a more limited statutory amendment, specifically directed to the type of issuances currently proposed by bank holding companies. Such an amendment could be limited to parent bank holding company debt obligations having an effective maturity of less than seven years and provide for their definition as deposits of the subsidiary bank.

Whichever way the Committee chooses to handle this immediate bank holding company problem, I am sure it is recognized that such a solution will deal only with a small percentage of the potential issuers of such obligations. There are many potential issuers in the market other than bank holding companies such as public utilities and industrial and manufacturing corporations. The assets of these corporations dwarf the assets of bank holding companies.

We understand these borrowings will be used in large part to replace or supplement existing commercial paper borrowings. If we measure potential issues in terms of the relative size of the commercial paper market, bank holding companies have approximately $7 billion in commercial paper or only about 15% of a market that reaches over $45 billion.

This development, rather than being isolated, is one in a series of events over recent years which cause serious threats to the thrift industry. Bank holding company borrowings of this type have some merits. For savers, they present an alternative investment. For bank holding companies, there would also appear to be benefits. However, the thrift industry is largely unable to compete with borrowings of this type. The issuance of a large volume of such obligations will further threaten thrift institutions and contribute to an even greater decline in the home building industry. These developments widen the gap between the public's housing needs and its availability.

Let me turn your attention to the basic problem. Thrift institutions are unable to compete due to statutory constraints which limit their investments almost exclusively to home loans. They have done their job well and provided sufficient funds to help make Americans the best housed people in the world.

The magnitude of their success in doing the job that needed to be done is proportionate to these problems. Low rate long-term home mortgages originated in the past will remain in the portfolios of thrift institutions for many years. There mortgages produce the major portion of savings and loan income. Thus, it is clear that during periods such as we are now experiencing, savings and loans have inadequate capacity to produce sufficient income to compete. For example, the initial rate on a proposed bank holding offering was announced at 9.7%. The average current yield on S&L long term mortgage portfolios is only 7.3%. Thus, S&L's are at a severe competitive disadvantage.

The Board is providing support for housing at record levels, and we are grateful that we have this capacity. However, no support mechanism can make up for major fundamental inadequacies in our free market system.

Inflation is the primary cause of our problem. The very existence of a thrift industry and an adequate supply of reasonably priced mortgages are inconsistent with the rate of inflation existing today in our country. This is especially true when undue reliance is placed upon monetary policy to correct the problem as is now the case. Reducing the rate of inflation must be our number one domestic priority, and I submit that we have the ability to do it.

We know that getting the rate of inflation to acceptable levels is likely to take a period of years. Even when inflation is under control, we will still have variations in interest rates. In order to overcome the type of difficulty we are now experiencing and to produce a lasting solution, we need to expand the capacities of thrift institutions. S&Ls must have the ability to adjust their income much more rapidly and to balance the structure of their assets and liabilities. Specifically, the Board recommends that thrift institutions be allowed consumer loan powers, unsecured construction loans to builders, greater capacity to invest in debt securities, checking accounts, family trust powers and other powers needed to accomplish this objective.

Although such new investment powers would reduce the thrift industry's percentage investment in housing, its capacity to attract more savings deposits would be increased and, though the percentage investment may be smaller, the actual dollar investment in housing may well be larger.

This would be a good beginning. However, there is also a critical need for responsible variable rate mortgages and for access to long-term funds supported by mortgages. In this connection, the Board needs authority to permit Federal savings and loans flexibility with respect to State usury laws. National banks currently are not limited solely to rates permitted by such laws.

Greater consumer powers, variable rate mortgages, and longer term funds to support long-term mortgages will give savings and loans the capacity they need to remain committed to housing while competing in a free market.

Changing the S&Ls industry's financial structure will take several years due to the over $200 billion of long-term low rate mortgages which it currently holds. It is important that we begin as soon as possible. We are long overdue.

In order to continue to provide affordable housing funds during this adjustment period, the S&L industry will need various forms of assistance. We have used saving rate differentials and tax-preferences. Both have a limited and rapidly declining value. It would appear these support measures though their value is lessened must be continued for the value they have for a while longer. In addition, we need to implement additional temporary support measures to supplement our proven method of Board support. This may involve the use of appropriated funds.

In summary, the Board believes the Committee can stop bank holding companies from issuing securities which directly compete with savings accounts more simply than is proposed. Yet, bank holding companies are only a small part of the potential issuers of these securities.

The primary problem is inflation. It is essential that we get this problem solved.

In order to deal effectively with the lack of S&L competitive capacity, it is important that we authorize additional operating capabilities. In the interim, we should be prepared to assist the thrift industry's commitment to housing with appropriated funds until thrift institutions have time to make full use of new powers and are able to compete effectively in a free market.

Time has not permitted us to obtain the advice of the Office of Management and Budget as to the relationship of this testimony to the Administration's program.

Mr. PROXMIRE. Billions of dollars in deposits can be siphoned away from thrift institutions and into large bank holding companies. Since thrift institutions—savings and loan associations and mutual savings banks—supply the bulk of mortgage credit, the average home buyer will find it almost impossible to obtain a home loan if bank holding companies are free to circumvent regulation Q.

Unless the authority of the Federal Reserve Board to regulate bank holding company borrowing is clarified, other large bank holding companies will follow suit. Several bank holding companies have already announced they plan to issue holding company notes similar to the Citicorp notes. Financial experts say this type of borrowing could approach $10 billion.

At a time when mortgage interest rates have reached their highest level since the Civil War, and at a time when the homebuilding industry is taking a nosedive, we can ill afford another crippling blow to the achievement of our national housing goals. My amendment would make it clear that the Federal Reserve Board does, indeed, have the authority, under 1969 legislation, to regulate the rate of interest on holding company borrowing regardless of the intended use of the proceeds. I should point out that my amendment provides the Board with discretionary authority to regulate holding company notes.

It does not mandate it. It gives the Federal Reserve Board the authority if it wishes to do so, when it thinks it is necessary to act. The Board would have the flexibility to judge the particular circumstances to decide whether regulation were necessary.

Mr. President, I recognize that a legitimate argument can be made that the small saver is entitled to a fair rate of return on his savings. There is no doubt that limitations on the rates of interest payable on savings deposits has worked an inequity on small savers. Nonetheless, Congress has made the judgment that regulation Q is necessary to preserve the stability of thrift institutions and the supply of mortgage credit until longer term reforms can be enacted. As long as we have regulation Q on the books,

I believe it should apply equally to all financial institutions and to all forms of borrowing, whether directly or indirectly through holding company affiliates. If we want to repeal regulation Q then let us do it directly. However, if we feel that regulation Q still serves a purpose, then let us not permit its selective dismantlement by large bank holding companies.

Mr. President, I ask unanimous consent to add Senator MAGNUSON as a cosponsor.

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

Mr. PROXMIRE. Mr. President, I will be glad to yield to the senior Senator from New Hampshire (Mr. MCINTYRE).

Mr. MCINTYRE. I must rise and object to this amendment being offered by the Senator from Wisconsin on the Export Administration Act. The issue that he is raising by his amendment is one that has already been subjected to hearings before the Subcommittee on Financial Institutions, of which I am chairman. I recognize the strong feelings that my able colleague from Wisconsin has, but I think that the sense of urgency has disappeared from the scene right now.

The Citicorp issue of $650 million is already, as one might say, out of the barn. The Chase offering of $200 million will also not be redeemable until June of 1976. The Crocker Bank and the Mellon Bank, with the lesser issues, are underway.

I would assure my colleague on the Committee on Banking, Housing and Urban Affairs that I shall recommend—I have already had conversations with our chairman—that at our meeting on August 8, that his amendment be considered as a matter of issue, or a question to be decided in executive session with all of the members of the committee there.

Mr. PROXMIRE. I appreciate that. I would like to point out, however, that this is a matter of the greatest urgency. The Senator has just made my point for me. The fact is that it is not just Citicorp. There is a whole series of other banks rushing to get in the gate. I think it is most important that we act very promptly.

As I say, this is not something that will mandate action by the Federal Reserve. It will merely allow them to pierce the corporate veil, recognizing that the holding company is nothing but an agency to do what the bank could not do under regulations. Simply to give the Federal Reserve Board that kind of authority, it seems to me, is the very least we can do to protect an industry that really has its back against the wall.

As I pointed out, the big companies are in trouble and the small companies are dying like flies.

Mr. MCINTYRE. Will the Senator yield to me further?

Mr. PROXMIRE. Yes, I yield.

Mr. MCINTYRE. I just say that the issue is not quite as simple as my good friend from Wisconsin makes it out to be. This is an innovative type of security that begins to give a break to the small investor. But I would assure the Senator from Wisconsin that if he will withdraw, recede on this amendment, on August 8, we will have a full opportunity in the executive session to discuss it thoroughly. It may very well be that I shall side with the Senator from Wisconsin in his position which he so well and so ably argues.

Mr. PROXMIRE. I thank the Senator from New Hampshire very much. I shall accede to his request. Before I do, I yield to the Senator from Ohio.

Mr. TAFT. I thank the Senator from Wisconsin for yielding.

I wish to ask a few questions about this amendment. It does seem to me to be a rather dangerous approach. I have had numerous communications from savings institutions in my own State in this regard, indicating that they expect a further outflow, and there already has been a tremendous outflow from savings and loan institutions which have had capital available in the past for homebuilding and similar types of endeavor.

I have also heard that there has been anticipated a possible issue of this type by a mutual savings bank, I think in the State of New York, by using this same device. The Senator said it is going to be wholly discretionary with the Federal Reserve. Unfortunately, the attitudes I have had indicated to me offhand from the Treasury Department, and perhaps also reflected in the Federal Reserve, seem to indicate that they do regard this type of issue, as the Senator from New Hampshire said, as an interesting, innovative new device. It may be, but I think it is a pretty dangerous one. Congress should address Federal interest rate ceilings and related laws comprehensively in the near future, but until this can be done it seems unwise to permit this type of issue to contribute to an even deeper housing depression.

I am not sure that the decision should be left wholly up to the discretion of the Federal Reserve whether or not, under certain circumstances, they are going to apply this regulation. They do not really have the responsibility for the problem with which I am concerned and with which the Senator's amendment is concerned, which is the availability of capital for housing construction purposes. That is not really their primary concern.

Mr. PROXMIRE. May I say to the Senator from Ohio, I just could not agree with him more, and I would like to make this resolution much stronger. Unfortunately, I am not sure we can even get this resolution adopted. When the Federal Reserve Governor, Governor Holland, who apparently has been given some discretion in this area, appeared before the committee, he indicated that he thought it was premature to offer this resolution even before the Congress, let alone to have the Federal Reserve act on it. I would like to do something much more forceful. I would like to prevent this kind of action by Citicorp and other corporations—as the Senator said, it might not be confined to banks—from absolutely draining funds out of the housing industry so that we have even a worse depression than we have now. But I think we have to take the practical kind of action. If the Senator knows of a way in which we can have a stronger measure, I shall be delighted to bring that up at the markup session of the Committee on Banking, Housing, and Urban Affairs on August 8, or to press it through more quickly if we can do it.

Mr. TAFT. I thank the Senator for his comments. I think it is extremely important that we do act quickly, because I would just point out that millions of dollars are being underwritten right now. Contracts with Citicorp and Chase have already been written, and one issue has gone to the public, as I understand it. Once that is done, I believe under the Constitution there is a right of contract with which one cannot interfere.

Mr. PROXMIRE. We cannot touch Citicorp now, we cannot touch Chase Manhattan, we cannot touch Crocker and others. All we can do is try to prevent an enormous spread, resulting in as much as $10 billion, going into this means of raising money.

Mr. TAFT. I appreciate the Senator's comments, and I certainly agree that this calls for early action.

Mr. PROXMIRE. I thank the Senator from Ohio.

Mr. President, I withdraw my amendment, with the understanding that the Senator from New Hampshire has given me, that we will have an opportunity to consider it at the markup that the Senate Committee on Banking, Housing, and Urban Affairs will engage in on August 8.

Mr. JACKSON. Mr. President.

The PRESIDING OFFICER. The Senator from Washington.

Mr. JACKSON. I call up my amendment, which is at the desk. That is the amendment relating to review by the FEA.

The PRESIDING OFFICER. The clerk will state the amendment.

The legislative clerk proceeded to read the amendment.

Mr. JACKSON. 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 the amendment will be printed in the RECORD.

The amendment is as follows:

On page 4, after line 8, of the bill, insert the following new subsection:

"(d) Section 5(a) of the Act is further amended by the following at the end thereof:

"In addition, the Secretary of Commerce shall consult with the FEA to determine whether monitoring under section 4 of the Act is warranted with respect to exports of facilities, machinery or equipment normally and principally used, or intended to be used, in the production, conversion or transportation of fuels and energy (except nuclear energy), including but not limited to, drilling rigs, platforms and equipment; petroleum refineries, natural gas processing, liquefication and gasification plants; facilities for production of synthetic natural gas or synthetic crude oil; oil and gas pipelines, pumping stations and associated equipment; and vessels for transporting oil, gas, coal and other fuels."

Mr. JACKSON. Mr. President, this amendment is self-explanatory. The pending amendment would simply require the Secretary of Commerce to consult with the Federal Energy Administration in order to determine whether the monitoring under section 4 of the act is warranted with respect to the export of facilities, machinery, or equipment nor-

mally or principally used or intended to be used in the production, conversion, or transportation of fuels and energy.

Let me point out that the reason for this amendment is very simple. We have been reading in the newspapers about the export of drilling equipment, drilling rigs, and supporting equipment to countries that in the past, at least, have cut off oil to the United States.

It seems to me, Mr. President, that at a minimum there should be a proper consultation before any of that equipment is exported.

The great tragedy in the energy field is that since last year, production in the United States is declining in oil. One of the basic reasons, as I argued when we had a bill on the floor of the Senate in connection with the Emergency Energy Act, is the lack of drilling equipment and drilling rigs.

I think it is absolutely wrong for the United States to be permitting the export of drilling rigs and equipment when we are in short supply here. If we can better marshal our own resources in this area, obviously we can speed up our production, help our economy, help the international balance-of-payments problem, and all ramifications involved in being dependent upon countries outside the United States for sources of our energy.

Mr. PACKWOOD. Will the Senator yield?

Mr. JACKSON. I yield.

Mr. PACKWOOD. As I understand the Senator's amendment, it simply adds specifically to the bill what the Secretary of Commerce generically has to do now, but directs him to consult with the Federal Energy Administration in these areas; is that correct?

Mr. JACKSON. That is correct.

Mr. PACKWOOD. I ask unanimous consent that the Senator from Texas (Mr. TOWER) and I be added as cosponsors of the amendment.

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

The Senator from Illinois.

Mr. STEVENSON. Mr. President, I believe the Senator from Washington should be commended for calling our attention to the serious shortage of drilling equipment, and for proposing this amendment and improving the bill by requiring consultation between the Secretary of Commerce and the FEA with respect to monitoring.

I might point out that other provisions of the bill in section 5 require consultation between the Secretary of Commerce and other appropriate agencies of the Government with respect to the actual imposition of exports controls. This amendment would assure consultation on monitoring. With the other provisions of section 5 with respect to consultation on the actual imposition of export controls, I believe we can be reasonably assured that there will be a close relationship and a high degree of cooperation between the Secretary of Commerce and the FEA.

Section 5 refers to other appropriate agencies. I bring this up because I think we should make part of our legislative history the intention of the Senate to require consultation between the Secretary of Commerce and specifically the FEA on questions having to do with the imposition of controls in order to help eliminate shortages of critical equipment for the energy industry.

Mr. President, I support this amendment. The Senator from Oregon supports the amendment.

Mr. JACKSON. Mr. President, may I just say that I want to commend the able Senator from Illinois for his leadership in this area. We have been working together on a number of amendments for some time. He has been extremely helpful.

I am most grateful, too, for the assistance of ranking minority member of the committee, the distinguished Senator from Oregon, for his support and assistance in connection with the proposed amendment and efforts to provide some rationality here, some checks by the Congress on matters that do bear directly on our own domestic well-being, as well as the other areas of national security.

Mr. DOLE. Mr. President, will the Senator from Washington yield?

Mr. JACKSON. I yield.

Mr. DOLE. Mr. President, if the Senator will permit me, I ask unanimous consent to have my name added as a cosponsor of his amendment.

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

Mr. DOLE. I should like to point out that when we started considering energy legislation last October, one of the first things called to our attention was what appeared to be the expanded exports of oilfield machinery, equipment, supplies, and pipe of all kinds. This issue is even more significant now in the State of Kansas and other States because we have a large number of independent oilmen who cannot purchase adequate supplies of equipment.

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of the unfinished business.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the 1 hour for debate be delayed 2 additional minutes.

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

Mr. DOLE. Mr. President, the consultation between the Department of Commerce and FEA should be helpful.

The Senator from Kansas offered an amendment to one of the energy bills last year which would have prohibited the export of any such materials. It was adopted in the Senate and is still in the Senate-House conference committee. This approach by the Senator from Washington would be a step toward the end my amendment would accomplish. My amendment would make more oilfield equipment available to the expansion of oil production in this country.

Hopefully, the bill my amendment is attached to will be reported out of the conference committee and this amendment of the distinguished Senator from Washington is good support for the need for my provision.

Mr. JACKSON. I thank the Senator from Kansas.

I appreciate the obvious unanimous support on the floor of the Senate. I thank the manager of the bill and the ranking minority member.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Washington.

The amendment was agreed to.

Mr. JACKSON. Mr. President, I wonder whether we have time to call up the unprinted amendment which is at the desk, involving police equipment.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

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

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment is as follows:

Section 4 of the Export Administration Act of 1969, as amended, is further amended by adding at the end thereof a new subsection 4(j) as follows:

On page 13, after line 13, insert a new section as follows:

"(j) (1) The Secretary of Commerce, after consulting with the Secretary of the Treasury, the Attorney General, and the Secretary of State, shall establish regulations for the licensing of exports of all police, law enforcement, or security equipment manufactured for use in surveillance, eavesdropping, crowd control, interrogations, or penal retribution.

"(2) Any license proposed to be issued under this subsection shall be reviewed by the Attorney General and shall be submitted to the Congress. The Congress shall have a period of sixty calendar days of continuous session of both Houses after the date on which the license is transmitted to the Congress to disapprove the issuance of a license by the adoption in either House of a resolution disapproving the proposed license.

"(3) The Secretary of Commerce, with the concurrence of the Secretary of the Treasury, the Attorney General, and the Secretary of State, may by regulation exempt individual countries and specific categories of police, law enforcement, or security equipment from the congressional review and disapproval authority set forth in paragraph (2) if he finds and determines export of the equipment would not threaten fundamental human and civil liberties."

Mr. PACKWOOD. Mr. President, reserving the right to object, has the amendment been called up or not?

Mr. JACKSON. I just called it up.

Mr. PACKWOOD. I say to the distinguished Senator that I will object to its consideration. I understand that we are going onto another item of business, anyway. I want an opportunity to look over the amendment, especially paragraphs 2 and 3, before we consider it. I understand that we will be back on this matter later.

Mr. JACKSON. I just want to make it the pending amendment.

THE PROPOSED ENERGY TRANSPORTATION ACT OF 1974

Mr. COTTON. Mr. President, presently pending on the Senate calendar of business, Order No. 991, is a bill, H.R. 8193, the proposed Energy Transportation Act of 1974, which would require increasing

specified percentages of all oil imported into the United States to be transported on U.S.-flag vessels.

I oppose vigorously the passage and enactment of this legislation which I view as being most unwise and contrary to the public interest, especially the interest of the American consumer and American taxpayer.

Mr. President, it was for this reason that by letter dated May 14 I sought to alert those several persons and organizations who I thought would have a vital interest in expressing their views on this House-passed bill when our Subcommittee on Merchant Marine or the Commerce Committee conducted its hearings late in the same month on this legislative proposal. Among those to whom I sent my letter was Mr. Ralph Nader, from whom I have yet to even receive the courtesy of an acknowledgment.

Therefore, Mr. President, I note with particular interest the most appropriate editorial appearing today, July 30, in the Wall Street Journal entitled "Where Are You, Ralph Nader?" concerning the lack of opposition and, indeed, any expression of concern whatsoever, by consumer advocates, such as Mr. Nader over H.R. 8193.

Mr. President, because of the timeliness and appropriateness of this editorial, I ask unanimous consent to insert it at this point in the RECORD, inviting the attention of my colleagues to its opening sentence which reads:

Now that the American consumer really needs him, Ralph Nader seems to have gone fishing.

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

WHERE ARE YOU, RALPH NADER?

Now that the American consumer really needs him, Ralph Nader seems to have gone fishing. Congress is on the verge of passing a fancy item called the Energy Transportation Security Act of 1974, in what can only be a straightforward deal with the free-spending maritime unions. The bill requires that 30% of all oil imports be carried on U.S.-flag vessels, compared to almost none today; it would add at least $20 billion and perhaps $60 billion to U.S. energy costs over the next decade. Why are the consumer advocates so quiet?

What is really ironic is that the maritime unions have been pushing cargo-preference legislation for years, scattering campaign contributions and sky-high lecture fees all over Capitol Hill to insure an attentive audience. They've always been rebuffed. Yet now, with Congress supposedly on a higher moral plain inspired by the Watergate revelations, great merit is suddenly discovered in the idea. The House has passed the measure by a 266 to 136 vote and the Senate is poised to adopt it in the next few days.

The argument that has been winning the day with the labor liberals in Congress is "national security." That is, in order to secure delivery of imported oil, the United States must build up its own fleet of tankers, manned with U.S. seamen. The Commerce Department estimates this will require the construction of 40 tankers at a cost of $4 billion by 1977. If in that year the Arabs cut off our oil, we won't get any more oil, but Americans can rest easy that what does get here will be carried in U.S. vessels. Somewhere else in the world there will be 40 empty tankers; some national security.

The cost of building and manning American tankers is so much higher than the competition that even the House Merchant Marine Subcommittee shamelessly admits it might add "a penny a gallon at most" to the price of gasoline; the Maritime Administration projects two cents a gallon by 1985. With U.S. consumption now at 100 billion gallons a year, that alone is $1 billion a year in increased cargo costs, rising to more than $2 billion a year by 1985.

And that calculation assumes that the rest of the world is going to happily permit the United States to violate existing treaties that prohibit preferences for commercial cargoes. It would be hard to reason with Saudi Arabia or Venezuela if they propounded laws requiring that 30% of the crude they ship to the United States must be carried in Saudi or Venezuela bottoms at the highest commercial rates, which of course will be those charged by the U.S.-flag vessels.

There is nothing in this legislation that is good for consumers, taxpayers or the nation as a whole. But those who should be complaining loudest about it, the Naderites and Common Cause, do not wish to irritate the AFL-CIO and thereby lose labor support for their Consumer Protection Agency, which is also before the Congress. The homebuilders and mortgage bankers haven't complained either. They're too busy pleading for direct relief themselves. Yet here is a measure that will take $4 billion from the capital market in three years and at least $20 billion from consumer spending in ten. Doesn't anyone realize the pork barrel is empty?

Perhaps they do, and are simply counting on President Nixon to take time out from his other troubles to veto the bill if it passes. The administration, at least, opposes the bill, which may be why so many members of Congress can vote for such a boondoggle and still live with their consciences. What alarms us most, though, is that a bill so worthless and inflationary can command so much support in Congress at a time when the United States is going through one of the worst inflations in its history. If Congress passes this, what won't it pass?

Mr. COTTON. Mr. President, I ask unanimous consent to insert in the RECORD several letters from organizations representing the agricultural sector of our economy expressing their opposition to the bills, H.R. 8193—the "Energy Transportation Security Act of 1974."

As I declared in my statement before the Merchant Marine Subcommittee of our Commerce Committee—which appeared in the RECORD of May 30—I oppose the enactment of the bill, H.R. 8193, which would require an increasing percentage of imported petroleum and petroleum products to be transported on U.S.-flag tanker vessels.

Mr. President, I fear the far-reaching repercussions that enactment of such legislation might produce. The costs of farm production would be forced upward. Our favorable international balance of trade for agricultural products would be severely affected. But, the ultimate consequence would be the increased costs passed on to the consumer in the marketplace. In these times of food shortages, soaring prices, and inflation, the consequences would be catastrophic.

In view of the extreme difficulties which would be imposed on the agricultural sector should such legislation be enacted, I ask unanimous consent that these several letters be printed in the RECORD.

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

NATIONAL ASSOCIATION OF WHEAT GROWERS,
Washington, D.C., May 20, 1974.

Hon. NORRIS COTTON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR COTTON: Thank you for your letter and information on the hearing on S. 2089 and HR 8193. Wheat growers have continuously been opposed to legislation mandating use of U.S. flag vessels.

Required use of U.S. flag vessels is an indirect subsidy that raises costs to U.S. consumers, increases costs of agricultural production, processing and distribution of food.

It is also very damaging to our efforts to reduce trade barriers, and to expand trade opportunities around the world.

If it is determined in the national interest because of national security or other reasons to subsidize the U.S. flag fleet it should be in the form of a direct subsidy.

I have enclosed a copy of our newsletter with a brief statement on this issue for your information. We will also file a statement and communicate directly with the Senators from our member states.

Sincerely,

JERRY REES,
Executive Vice President.

STATEMENT

The Senate Committee on Commerce, Subcommittee on Merchant Marine will hold hearings on S. 2089 (introduced by Senators Magnuson, Jackson, Beall, Jr., and Mathias, Jr.) and H.R. 8193 requiring a percentage of U.S. oil imports be carried on U.S. flag vessels.

NAWG will oppose passage of this legislation because it would raise the cost of fuel to consumers and the cost of agricultural production. Expanded trade opportunities and national security interests can best be served by direct subsidies to the maritime industry rather than indirect cargo preference legislation.

AMERICAN FARM BUREAU FEDERATION,
Washington, D.C., May 21, 1974.

Hon. NORRIS COTTON
U.S. Senate
Washington, D.C.

DEAR SENATOR COTTON: Thank you very much for your informative letter of May 14. We share with you the conviction that enactment of H.R. 8193—or similar cargo preference proposals—would be detrimental to our national interests.

I deferred answering your letter until I could submit to you a copy of our statement prepared for submission to the Subcommittee on Merchant Marine, Senate Committee on Commerce. A copy is enclosed.

We commend you for your leadership in opposing unsound cargo preference proposals, and we will support your position to the maximum extent possible. We are alerting all of our State Farm Bureaus to the need for immediate action to urge Committee rejection of H.R. 8193.

Sincerely yours,

JOHN C. DATT
Director, Congressional Relations.

AMERICAN FARM BUREAU FEDERATION,
Washington, D.C., May 21, 1974.

Hon. RUSSELL B. LONG,
Chairman Subcommittee on Merchant Marine, Committee on Commerce, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: We understand that your Subcommittee will hold hearings on May 20-21-22 on H.R. 8193, the "Energy Transportation Security Act of 1974." We wish to express Farm Bureau's views with respect to this bill.

Farm Bureau is the largest general farm organization in the United States with a membership of 2,293,680 families in forty-nine states and Puerto Rico. It is a voluntary, nongovernmental organization and represents farmers who produce virtually every agricultural commodity produced in the entire country.

Every one of our member families uses petroleum products. These products are an essential part of the productive process that provides Americans—and many persons in other countries—with needed food and fiber.

The Federal Energy Administration has recognized both the importance of agriculture to our economy and the importance of petroleum products to agriculture. It has awarded to agriculture the highest priority in its mandatory petroleum allocation program.

The basic objective of H.R. 8193 is to require that a minimum percentage of the gross tonnage of the major liquid petroleum products imported into our country shall be carried in United States-flag vessels. This proportion would be at least 20 per centum upon enactment of the bill into law; at least 25 per centum after June 30, 1975; and at least 30 per centum after June 30, 1977.

Prior to approving the projected increases to at least 25 per centum and to 30 per centum on certain future dates, the Secretary of Commerce would be required to determine that there would be sufficient U.S.-flag tonnage to carry the added quantities. There is no similar provision relating to the initial minimum of 20 per centum.

The lack of provision for due consideration of (1) the adequacy of U.S. capacity during the initial period following enactment of the bill, and (2) the efficiency of service at any period after enactment, means that passage of the bill very likely would result in unilateral, protectionist interference in international trade that is both unwarranted and unjustifiable.

Our members long have supported efforts to maintain a strong U.S. merchant marine. They would be pleased if 50 per centum or more of the imported petroleum products were carried in U.S.-flag vessels; however, they believe that operators of such vessels should earn the right to carry large volumes of various commodities.

On January 17, 1974, the elected voting delegates of the member State Farm Bureaus adopted the following policy pertaining to cargo preference:

"We support efforts to maintain a strong U.S. Merchant marine. However, in view of the extensive subsidies received by this industry, we do not believe it is proper for our government to require certain cargoes to be placed aboard American ships when their rates are not competitive with other available transportation. Part of the solution to this problem lies in modernization of domestic shipping facilities and port installations with greater emphasis on efficiency."

Enactment of this bill would adversely affect farmers and ranchers in two important ways:

1. Higher farm production costs: We cannot provide a precise estimate of the increase in costs that would result from passage of this bill. Testimony during hearings held in the House indicated a range of from a few cents to well over one dollar for every barrel of oil imported by tanker. It appears obvious that the increase in ocean freight rates would be substantial. If this were not the case, U.S.-flag vessels now would be able to compete effectively and earn a fair share of the business, and no cargo preference bill would be under consideration.

The cost of procuring the needed foreign supplies of petroleum also would increase as a result of a reduction in the flexibility of programming oil shipments. Deliveries would become less efficient and less dependable.

The increases in costs of imported petroleum products would have to be reflected in U.S. farm production costs for foods and fibers. This would mean higher prices for agricultural commodities in both domestic and foreign markets.

2. Reduced export markets for agricultural commodities: Passage of this bill would be used as justification for attempts to extend the cargo preference concept to export shipments of agricultural commodities now moved in bulk; i.e., wheat, corn, soybeans, sorghum, etc. Such an extension of the concept would result in higher prices for these commodities at foreign ports of delivery. Higher prices to foreign buyers of U.S. agricultural commodities would reduce demand for such commodities and spur buyers to seek alternative sources of supply. This would lead to smaller expenditures for U.S. commodities and lower incomes for U.S. farmers and ranchers.

Further, oil exporting countries might adopt retaliatory measures that would adversely affect exports, including agricultural commodities.

Urban consumers also would be adversely affected. They would have to pay more for (1) the petroleum products they use themselves, (2) various consumer products for which the industrial use of petroleum products is a significant cost factor, and (3) U.S. food and fiber produced in smaller quantities, at higher per unit costs as a result of shrinking export markets for agricultural commodities.

Decreased expenditures by foreign buyers would lead not only to a further loss of markets for U.S. farmers and ranchers but also to a worsening of our international trade balance. Our net surplus in value of agricultural exports over agricultural imports now is the most favorable part of our national trade balance situation.

We urge the Subcommittee on Merchant Marine of the Senate Committee on Commerce to reject in their entirety H.R. 8193, the "Energy Transportation Security Act of 1974", and other bills with similar objectives.

We respectfully request that this letter be made a part of the record of the hearings.

Sincerely,

JOHN DATT,
Director, Congressional Relations.

NATIONAL COUNCIL OF FARMER COOPERATIVES,
Washington, D.C., June 11, 1974.

Hon. NORRIS COTTON,
U.S. Senate, Committee on Commerce, Dirksen Senate Office Building, Washington, D.C.

DEAR SENATOR COTTON: Thank you for your recent letter requesting the National Council of Farmer Cooperatives' views on H.R. 8193 and S. 2089 and other cargo preference legislation pending before the Senate Commerce Committee. The National Council continues to oppose such legislation not only because of the effects it could have on agriculture but because it will hamper efforts to promote free trade. Listed below are some of the specific objections the National Council has to this legislation.

1) On-farm fuel consumption totals about 3% of the total daily consumption of petroleum. When transportation, processing and distribution are added, agricultural needs total about 15% of the total daily rate of consumption.

Some experts have estimated that if the cargo preference bill is adopted, it would add approximately 50¢ per barrel to the cost of every barrel of petroleum imported. Computed on this basis, on-farm fuel costs would increase by about $35 million per year. Total increased costs to agriculture would be at least $175 million per year. The increased costs, of course, would ultimately be paid by the consumer.

2) Added fuel costs would not be limited to agriculture; they would affect every segment of our economy. Such increases mandated by the Congress seem odd in light of the fact that the industry is under severe criticism for dramatic increases in product prices. At the same time, the legislation weakens the argument that oil-exporting nations are currently charging too much for their crude oil. The passage of this legislation would show the world that the United States is not, in essence, unwilling to pay even higher prices for its imported petroleum.

3) The passage of cargo preference legislation would increase the pressure on the Defense Department to provide assured quantities of steel to the ship-building industry. In the National Council's view, if the Department of Defense yielded to such pressures, it might affect agriculture's ability to obtain sorely needed quantities of rod steel and sheet steel already in short supply. This in turn could affect agriculture's ability to meet this nation's food and fiber production goals.

4) Cargo preference legislation, if adopted for oil imports, might be proposed for agricultural exports. Such an irresponsible move would come at a time when agriculture needs all of the flexibility it can obtain. Exports of agricultural commodities are expected to increase from $12.8 billion to over $20 billion. Such a move could make it difficult to meet these export goals which in turn would make it impossible to use agricultural exports as a partial offset for the $25 billion in petroleum the United States is expected to import this year.

5) The ship-building industry should be encouraged to become more competitive not less competitive, by creating artificial barriers that discourage competition. Along these lines, it is interesting to note that of the eight major maritime countries, not one has a cargo preference requirement. The Maritime Act of 1970 is a far better approach to developing a healthy, viable maritime industry than this legislation, which in essence legislates non-competition in the industry.

6) The legislation would encourage retaliation by other nations, and that would reduce flexibility in international shipping. While it might initially increase the capabilities of the U.S. Merchant Marine, it would obviously encourage oil exporting nations to adopt similar preferences to help build up their own merchant marine fleets. This would inevitably place us on a political collision course with these nations—a battle difficult for the United States to win but very easy to lose.

7) The definition of an independent refiner is wholly inadequate. Farmer cooperatives, which supply about 30% of agriculture's on-farm fuel, operate either jointly or individually eight refineries. Only two cooperatives operating refineries would fall into the independent refiner category as defined in this bill. This category is nothing but a device to develop political support for the bill. Most independent refiners, as defined in the bill, own inland refineries that probably could not economically utilize foreign crude oil on a direct import basis.

8) Seventeen farmer cooperatives recently formed a corporation called International Energy Cooperative, Inc. One of the purposes of the new cooperative is to barter agricultural commodities directly with oil-exporting nations in exchange for crude oil to our farmer cooperative refineries. It is entirely possible that the economics of such an effort could be seriously affected if the cargo preference bill were passed. Even if there were no economic effects, it would obviously make such an arrangement much more complicated. It is curious to note that this restrictive legislation comes at a time when small, independent refiners are being encouraged to seek out additional sources of crude oil for their crude-deficient refineries.

Senator, the National Council is deeply appreciative of the continued opposition you and others have shown to this type of restric-

tive legislation. If the Council can be of further service or provide additional information, please let us know.

Sincerely

BILL BRIER,
Director of Energy Resources.
ROBERT N. HAMPTON,
Vice President, Marketing and International Trade.

NATIONAL GRANGE,
Washington, D.C., May 22, 1974.

Re S. 2089 and H.R. 8193.

HON. RUSSELL B. LONG,
Chairman, Subcommittee on Merchant Marine, Committee on Commerce, U.S. Senate, Washington, D.C.

DEAR SENATOR LONG: The National Grange has always opposed the passage of legislation that would require a percentage of U.S. imports of crude oil and petroleum products to be carried on U.S.-flag vessels. It has so testified in Congressional hearings in the past. The late fuel oil crisis and continuing fuel shortage and cost escalation has in no way changed our views but, if anything, has intensified our convictions.

We believe that any such interference in the normal course of trade and free movement in world commerce would inevitably result in increased cost to the American consumer. Moreover, the effect would be discriminatory against those regions that depend in large part on imported oil—New England, Middle Atlantic, the West Coast and Hawaii. These regions would bear a disproportionate share of the added costs.

The legislation would complicate and impede the importation of oil and petroleum products just when such imports are badly needed. It would in no way make some importation easier or less expensive.

Passage of any such legislation would not be consonant with many existing treaty obligations of the United States and would invite retaliation by foreign countries. It would be a step backward in the worthy struggle for more freedom in world trade. Once a precedent was set in the matter of oil, the concept might well be extended to other imports and to experts as well, such as our agricultural exports which are so important to our balance of trade.

There must be some way to foster the development of an American flag tanker fleet other than legislation which is objectionable for so many reasons, only a few of which are here mentioned. On the matter of cost alone, it appears that the approach taken by this legislation would be the most expensive of all to the people of this nation. Other remedies, such as fleet expansion under the Merchant Marine Act of 1970, would cost much less. The National Grange has always actively supported such expansion.

Thank you for giving attention to the views of the National Grange. It would be appreciated if this letter were made a part of the record of the hearings being conducted by your subcommittee.

Sincerely,

JOHN W. SCOTT,
Master.

CONSUMER PROTECTION—AGENCY FOR CONSUMER ADVOCACY

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of the unfinished business, which will be stated by title.

The assistant legislative clerk read as follows:

A 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. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the 1 hour of debate be equally divided between Mr. ERVIN and Mr. RIBICOFF.

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

Who yields time?

Mr. ROBERT C. BYRD. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. The Senate will be in order.

Who yields time?

CLOTURE MOTION

Mr. RIBICOFF. I yield myself 5 minutes.

Mr. President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair, without objection, directs the clerk to read the motion.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate upon 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.

1. Abraham Ribicoff.
2. Howard M. Metzenbaum.
3. Philip A. Hart.
4. Joseph R. Biden, Jr.
5. Mike Mansfield.
6. Edmund S. Muskie.
7. Warren G. Magnuson.
8. Gale W. McGee.
9. John O. Pastore.
10. Henry M. Jackson.
11. William D. Hathaway.
12. Lee Metcalf.
13. Walter D. Huddleston.
14. Floyd K. Haskell.
15. Claiborne Pell.
16. Clifford P. Case.
17. Edward W. Brooke.
18. Edward M. Kennedy.
19. Charles H. Percy.

Mr. RIBICOFF. Mr. President, I rise in support of the pending motion to invoke cloture. After 13 years of study and debate, the time has come to act on legislation to create an independent Consumer Protection Agency.

This legislation has been extensively debated by the Senate since Senator Kefauver first introduced a bill in 1961 to establish a Department of Consumers. Since then, many people have studied the concept of an independent Consumer Protection Agency, and many words have been spoken and written.

Over the years, the legislation has been considered extensively by the appropriate committees.

In 1969 and 1970, a total of 11 days of hearings were held by the Executive Reorganization Subcommittee of the Government Operations Committee on five different consumer agency bills. After thorough review of the testimony, an entirely rewritten bill was reported by the committee.

In the 92d Congress, the subcommittee held in November 1971, 2 more days of hearings on the measure. The bill was then considered at length by the committee before it was reported in September 1972.

In this Congress, S. 707 was first introduced in February 1, 1973. Over a year of extensive discussions followed with other members of the committee, the administration, and outside parties, to perfect the legislation.

The Government Reorganization Subcommittee, in 1973, held joint hearings with the Commerce Committee. Eighteen witnesses testified over 6 different hearing days.

The subcommittee, on March 28, 1974, then ordered the bill reported to the full committee with amendments modifying or deleting many of the major provisions contained in the original bill. Early in April, the Commerce Committee reported the bill with additional amendments. The full Government Operations Committee considered the bill and ordered it reported on May 16.

At this time, Mr. President, I wish to pay tribute to our distinguished chairman, Senator ERVIN, who, although he is opposed and always has been opposed to the bill, as chairman of the full committee did everything within his power to have timely committee meetings and to expedite the committee consideration. At times when we did not have a quorum, our distinguished chairman, who was against the bill, was always presiding, even though a quorum was not present.

Mr. PERCY. Mr. President, will the Senator yield on that point?

Mr. RIBICOFF. I yield.

Mr. PERCY. Mr. President, I should like to add the admiration, also, of the minority members of the committee, some of whom support the proposed legislation and some of whom do not, but all of whom respect the fact that our distinguished chairman always sees fit to let a matter be voted upon, up or down. He presided in such a way that we could actually report this bill to the floor of the Senate. Even though he strongly opposes the bill, he wants the Senate to exercise its will.

I express appreciation for that to the Senator from North Carolina (Mr. ERVIN) and to the Senator from Alabama (Mr. ALLEN), who is in the same position and has always been eminently fair.

Mr. RIBICOFF. That is correct. Senator ALLEN, who opposes this bill, also went out of his way to help us make a quorum. He brought up many amendments which were defeated, after long discussion, with great research. There is no question in my mind that many of those amendments will be brought up on the floor of the Senate in future days.

In all, the idea of an independent consumer protection agency has been discussed in 19 days of hearings. Forty-six witnesses have been heard. Scores of different bills have been considered. Over 1,500 pages of hearings have been print-

ed. Three hundred pages of committee reports containing majority and minority views have been prepared.

The legislation has also been considered extensively on the floor of the Senate.

In 1970, the Senate debated the bill for 2 days and passed the legislation by a vote of 74 to 4.

In 1972, the bill was analyzed in an 11-day debate, filling 115 pages of the CONGRESSIONAL RECORD.

A clear majority of the Senate favored the bill. But it died because a minority of the Senate made a final vote on the bill impossible.

And now, the legislation has been on the floor since July 16. During the last 2 weeks, seven rollcall votes have been ordered. The Senate has adopted nine amendments to the bill and defeated one other proposed amendment. Opponents of the bill have had extensive opportunity to make their views known to the remainder of the Senate. Their comments and speeches have occupied approximately 85 percent of the time devoted to this bill on the floor of the Senate.

S. 707 is important legislation. It creates a new type of Government agency. For the first time it assures the individual consumer that his interests will be heard in the halls and hearing room of Government.

Because the bill is landmark legislation, it should be thoroughly studied and debated by the Senate. But the Senate has now had 13 years to consider the idea of a consumer protection agency. Debate on S. 707 has already stretched over two weeks.

The time for final action on the bill has come.

The time for a majority of the Senate to work its will has come.

I hope that today the pending motion will be adopted by a two-thirds vote of the Senators present and voting.

Mr. ERVIN. Mr. President, I yield myself 3 minutes.

First, I ask unanimous consent that all amendments proposed to S. 707 which are now at the desk shall be deemed to have been presented and read prior to the cloture vote for the purposes of satisfying rule XXII.

The PRESIDING OFFICER (Mr. MCCLURE). That has already been done.

Mr. ERVIN. All right, I did not know it.

Mr. President, I want to thank my good friend, the distinguished Senator from Connecticut (Mr. RIBICOFF) and the distinguished Senator from Illinois (Mr. PERCY) for their exceedingly generous remarks concerning my action on the Senate Government Operations Committee.

As chairman of this committee I have adopted the policy of trying to expedite consideration by the committee of any legislation that any member of the committee was interested in having reported to the Senate.

At the same time, I have preserved my right as a Senator to oppose anything coming from the committee after reaching the floor of the Senate. I think this is the first bill that has come from the committee that I have opposed.

Notwithstanding the consideration of this bill, or previous bills as depicted by my good friend from Connecticut, I wish to say I think Members of the Senate are still ignorant of the contents of this bill as a whole. The ones that are familiar with the contents are disturbed beyond expression by the implications of the bill and to our economic system and our governmental system.

I first became acquainted with the bill in 1970. I will be perfectly frank to say I did not read it until the night before the bill was scheduled for floor consideration and as a result of reading that bill I had a governmental nightmare from which I have never yet recovered.

At that time, I think I was the only Member of the Senate, as a result of the knowledge I acquired the few hours before it was to come up, who knew anything about its contents except those who made it.

I stood on the floor of this Senate and fought it to the best of my ability the next day. I was able to win support of only three other Senators, so the bill passed with only four opposing votes.

Since that time, a lot of people have gotten their eyes opened to the contents and implications of this bill and the opposition has been steadily growing.

I think that if those of us who oppose the bill can have adequate time to debate and to educate the other Members of the Senate on the contents and implications of this bill, we will soon have this minority of 4, which grew to almost a minority of about 40, converted into a majority.

For that reason, I hope the Senate will vote down this motion for cloture.

I do wish to say before I take a seat that the floor manager of this bill is one of the finest public servants the United States has ever had and one of the finest gentlemen of my acquaintance.

For that reason, I rejoice in the prospect that after I leave the Senate in January, he will succeed me as chairman of the Government Operations Committee.

I want to also take this occasion to thank him and the Senator from Illinois for the great work they have done on the committee this year. I think the committee this year has been one of the most productive of all of the committees of the Senate and this is the only real legislative proposal that has been proposed to this body and all the rest of them have been governmentally righteous. I hope all the rest of it will pass except this one here, and I hope that the Senate will reject the cloture motion and enable us to debate it.

Mr. RIBICOFF. I yield myself 2 minutes, Mr. President.

I cannot help but respond to the gracious manner and attitude of our chairman. Of course, I do not know what the future will be. First, I have to get reelected and then the Senate has to vote to have me succeed our distinguished chairman. But should both events take place, I could not imagine a greater honor than to follow the distinguished footsteps of our great Senator from North Carolina (Mr. ERVIN).

He has taught all of us as Senators what our role and duties are with one another, politeness, consideration, availability, cooperation; and it is because of Senator ERVIN that the U.S. Senate is such a great institution. I am sure that Senators who follow all of us in many years will always look upon the career of Senator ERVIN and what he has stood for in the highest tradition of the U.S. Senate.

There could be no greater ambition of any man entering this great body than to follow the lessons, the style and philosophy of the distinguished senior Senator from North Carolina.

Mr. BUCKLEY. Mr. President.

Mr. ERVIN. Does the Senator from New York desire time?

Mr. BUCKLEY. I would like to have 5 minutes.

Mr. ERVIN. I yield 5 minutes to the Senator from New York.

The PRESIDING OFFICER. The Senator from New York.

Mr. BUCKLEY. Mr. President, the distinguished manager of the bill has made a great point of the fact that many days of testimony have been taken, many witnesses have been heard, voluminous reports published, the report of the committee and the minority views also published, and that we have now had this matter before us since the 12th of July.

He urges us to conclude from that that Members of this body are really aware of the implications of this legislation, really understand how it would operate, realy comprehend the extent to which it would or would not actually advance consumer interests.

Mr. President, I would like to suggest that most Members of this body do not yet understand the implications of this far-reaching legislation.

In the first instance, it is no secret to any one of us that each of us is so preoccupied with his own work—and this is certainly true at this time of year when so much major legislation is being rushed through our respective committees—that we simply do not have the attention span to focus on this legislation.

I think as we look around in this Chamber today we can see that much of the debate that has taken place has not reached the ears of anyone but those individuals among us who happen to have a strong interest in this legislation, either pro or con.

Despite the fact that this matter has been before us since the 18th of July, there have actually only been 14½ hours of debate.

I would like to suggest, Mr. President, that given the fact that so few Senators become exposed to what we have to say, given the fact that the issues at stake have been given so little publicity by the press, I for one am not at all convinced that it is in the interest of the people of the United States, of the consumer, to terminate the debate at this time by voting in favor of cloture.

I do believe that as we are proceeding, that as we allow time for the great educational process in the country to take place, if it does not occur in this body, that we are seeing progress. We do see that here and there individuals

and groups suddenly coming to realize that that which was originally styled the Consumer Protection Agency really will not protect the consumer, but will serve to complicate our administrative procedures, restrict consumer choice, increase the expense to the consumer, and accomplish none of its stated objectives.

One particular evidence of this new awareness, and one that sort of amuses me, is the fact that suddenly the certified public accountants of the United States came to realize that if we talked about CPA, referring to this agency, in due course it would give the accounting profession a bad name, because inevitably, if we adopt this legislation, we will find the public increasingly understanding that the CPA is a form of Public Enemy No. 1—and I am speaking of enemy of the consumers.

One of the aspects of this legislation to which insufficient attention has been directed, it seems to me, has to do with precisely its impact on consumer choice and on consumer cost. I believe it would be worth our while at this time, Mr. President, for me to take the time to read the testimony of Prof. Ralph Winter of the Yale Law School, which he gave at the hearings of the Subcommittee on Rules on this particular legislation.

I might say, incidentally, that Professor Winter is an expert on administrative law. He told me the other day that he has spoken to many of his colleagues at the Yale Law School and elsewhere, and that to a man those who are knowledgeable on the subject of administrative law have had to conclude that this is an extraordinary machine for throwing wrenches into the operations of just about every agency we have in this country that is focusing on specific areas of consumer concern.

The PRESIDING OFFICER (Mr. McCLURE). The Senator's 5 minutes have expired.

Mr. BUCKLEY. May I have such additional time as required for the reading?

Mr. ERVIN. I yield the Senator 4 additional minutes.

Mr. BUCKLEY. I now read from Professor Winter's testimony:

Although I oppose S. 707 as a whole, the burden of my statement is directed to title II in the proposed Consumer Protection Agency.

This title will establish an agency to represent as an advocate the interests of consumers before other Federal regulatory and judicial tribunals in the hope of offsetting what is thought to be the excessive influence of producer groups. In my view the principal attraction of the bill is the statement of purpose and the name of the agency it creates, for one can hardly be against protecting and promoting the interests of consumers. Experience teaches, however, that there is a great difference between the rhetoric of the United States Code and the actual impact of agencies created thereby.

In my opinion, the proposed CPA will, at best, be a superfluous waste of taxpayer money and, at worst, counterproductive as far as the interests of consumers are concerned.

The need for this legislation is said to arise from the pervasive failure of other Federal agencies to protect the consumer. This failure has many sources but most observers seem to agree that inefficiency, partisanship and excessive responsiveness to special interests are the principal causes.

The chronic failure of regulation in the past, however, would seem to call more for deregulation than the creation of yet another agency which will in time also be discovered to be counterproductive.

For unless there is magic in the name "Consumer Protection Agency," there is no reason to expect it to avoid the pitfalls which have downed its predecessors.

Lower-level employees will be drawn from the same pool which supplies the older agencies, they will be protected by the same Civil Service and motivated by the same desire to survive in as undisturbed a fashion as possible.

The Administrator will be appointed by the President, who also appoints the top officials in the agencies which are said to have failed. And the special interests which have sought, often successfully, to turn the work of other agencies to their advantage will find it in their interest to attempt to influence this agency also. Safety regulation, for example, can be utilized to injure foreign competitors and thus serve in effect as a restriction on entry.

The support lent by the advocacy of a CPA would provide the perfect camouflage for such a venture. One of the charges made against the older agencies is that they have permitted their powers to be turned to just such monopolistic ends. Why the proposed agency would be less responsive to such pressures is, in my judgment, hardly self evident.

CONSUMER REPRESENTATION

The function of consumer representation before other agencies also seems to me to be a role which is either superfluous in practice or wrong in concept. When a number of different governmental policies are relevant to an agency's decision, they should be brought to its attention. All too often, for example, regulatory agencies act in ways which restrain competition and undermine the policies of the Sherman Act. The function of exposing countervailing policies, however, ought to be performed by those responsible for enforcing the particular policies; for instance, the Antitrust Division of the Department of Justice. Creating a new agency to play that role seems to me to be redundant and to divide responsibility so that everyone concerned can avoid accountability for the failure of policy.

The proposed CPA is in other ways a cure which is not well tailored to the disease. Where the legislation implemented by the older agency is itself contrary to the interests of consumers, as is often the case in transportation, for example, deregulation is an infinitely better remedy than advocacy by a CPA.

Where the legislation is designed to help the consumer, advocacy by the CPA will in large part simply urge adherence to laws already on the books. But if agencies are presently disregarding the intent of Congress, better remedies are to rewrite the basic statutes so that legislative intent is more specifically reflected in the language, increase the scope of judicial review or reform the original agency in some other way.

The least desirable step would seem to be the creation of a new agency which, except for advocacy, has no power to affect the work of the older ones.

Where the proposed CPA is supposed to appeal to agency discretion, the cure may be worse than the disease, for if its advocacy is successful, it may in the longrun hurt consumers and, in particular, the low-income consumer. Where the CPA is engaging in advocacy against a particular product, for instance, it simply cannot represent all, or even most, consumers.

S. 707 describes itself as intended to protect consumers in matters such as safety, quality, purity, potency, healthfulness, durability, performance, repairability, cost, and so on.

The fact is however, that we live in an imperfect world and benefits are rarely gained without costs. Where durability is concerned, for example, the choice may be between increased product life and decreased price, or product life and performance. In a market economy, it is the individual consumer who should make that tradeoff, for different consumers will place different values on different product characteristics. One agency, or two, or even ten, cannot represent all consumers on issues such as this. Thus it is that it will always be the CPA's choice, rather than the consumer's that is represented.

CPA MUST BE THE PRINCIPAL

Legal representation can be effective only when there is a single interest to represent. Where there is no homogeneous single interest, as with durability, there is a conflict of interest between consumers and representation is impossible.

For this reason, the proposed CPA must always be the principal rather than the agent.

That is why, I take it, the legislation does not detail with any specificity the grounds on which the CPA is to decide to appear before another tribunal and argue for more safety or more durability, even though higher prices may be entailed. The only thing we can be sure of is that the CPA will never argue for a cheaper product with less durability, or purity, or what have you, for once it is acknowledged that increased benefits means increased costs and the CPA does not provide something for nothing, the voter will view the CPA as a useless, if not harmful, expenditure of the taxpayer's dollar.

For this reason, I fear the CPA may injure the low-income consumer by increasing the price of a large number of products. To be sure, law can compel the production of better products, but only by increasing their cost.

It can also compel, at a cost to all consumers, the dissemination of detailed product information which is of interest and value only to the highly educated.

These measures must decrease output and, in particular, the production of cheaper products. It is all very well for middle and higher income groups to call for more quality and safety, for they can afford it and laws compelling greater production of better goods may, because of economics of scale, make higher quality goods less expensive. But such laws may also eliminate the even cheaper products the poor can now afford.

In my judgment, the best way to help the consumer to obtain more quality, safety, durability and the like, is to get on with the job of repealing the regulatory statutes which now penalize the consumer so heavily so that he can afford to purchase those goods and products having those desirable qualities rather than continue to be saddled with costly regulation which hurts him in the end.

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

Mr. CLARK. I thank the Senator from Connecticut.

Mr. President, I rise in strong support of the cloture motion. Various proposals have been introduced and discussed to create some form of institutional voice for consumer interests for a decade. It seems to me that is long enough to talk about such a significant subject.

In 3 of the last 4 years, consumer protection proposals have been on the floor of either House of Congress. Few issues have been discussed at greater length. In 1972, the bill passed the House but was killed by a similar filibuster in

the Senate. This year the House has once more acted on this legislation, and it is back to the Senate again. It seems to me that the argument that there has been inadequate time and inadequate consideration would apply to almost any other measure that has been introduced in the Senate more appropriately than to this one. It has already been filibustered. It has already been passed twice in the House of Representatives. It has been discussed many, many times.

Certainly the Senate and the House of Representatives need to a spend an adequate amount of time discussing any issue, but there is a limit to how much we can be expected to debate and discuss.

If I understood correctly the last speaker, he indicated that something like 14 hours had been used so far in debating this topic, and suggested that that was perhaps inadequate. I doubt that there have been five measures in the Senate during this entire year that have been discussed for more than 14 hours.

I think the other essential point is that if we vote cloture here this afternoon, it will simply mean that we will have up to an additional 100 hours to debate this matter before we vote on it, if each Senator decides to exercise his right of 1 hour of debate. So no Senator is going to be cut off from his right to debate this issue this afternoon. Each Senator, in turn, may have up to 1 hour, and that is all this cloture vote will do—simply give us the opportunity to speak at length for up to 100 additional hours—and then to decide the issue.

It is understandable that many Members and many people view this proposal and its merits differently. I happen to support the bill. I believe it provides the best vehicle to insure that legitimate consumer interests are aired before a proper Government agency. One can disagree with that.

I think it equalizes or helps to balance the well organized activities of the special interests. It provides for a clearinghouse for consumer complaints, with authority to request enforcement action by other agencies. Certainly one could disagree with their functions, too.

I think, certainly, that it is established now that it is not another regulatory agency. Its purpose is to represent interests, not make decisions.

It is supported by a number of business groups such as Montgomery Ward and Motorola, as well as a number of people who speak for business, including Business Week magazine.

We know other businesses disagree. My point is not whether or not we should adopt this measure at this time, but whether or not we should vote on it.

Everybody can agree on one thing; after half a decade of discussion, after floor consideration in 3 of the past 4 years, and after one successful filibuster already, the issues on both sides have been raised. Everyone who wishes to has had an opportunity to speak on this issue. The arguments have been made. The Senate owes the American people a vote on the merits of this proposal one way or another, up or down. If the measure deserves to be defeated, it should be defeated.

The PRESIDING OFFICER. The time of the Senator has expired.

Who yields time?

Mr. RIBICOFF. Mr. President, I yield 2 more minutes to the Senator from Iowa.

Mr. CLARK. Mr. President, I simply conclude by saying that if the measure deserves to be defeated, then let us defeat it. If it deserves to pass, then let us pass it. That is the democratic process, and we should not simply back off and say that we are unwilling to see what the majority will is and to allow an obstructionist procedure to prevent an up or down vote.

So let us end debate and vote on the bill after giving every Senator his hour to debate the measure.

I yield back the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. ERVIN. Mr. President, I will yield 5 minutes to the distinguished Senator from Nebraska (Mr. CURTIS).

Mr. CURTIS. Mr. President, I thank my distinguished friend from North Carolina.

We should not vote cloture on this bill because I am thoroughly convinced if we spend more time on it, if more Senators go into the proposal in depth to make a speech on it, that both the Senate and the country at large will turn against this legislation.

It has every characteristic of bad legislation and none of the characteristics of good legislation.

What is needed in this time of complexity in business and in government is clarity. We need a lessening of the number of agencies with whom our citizens must deal. We need government regulations and rules that become final, that people can depend upon.

This sets up a new agency. Now, who is there to argue that we need more Government agencies? This sets up a new Government agency that has a broad jurisdiction to go here, here, and there and there, and intervene in the proceedings of all other agencies.

Someone may undertake to find out what the law and the regulations require of their particular business or operation only to find, if this legislation is enacted, that a new agency comes in, enters into the picture, files a procedure, subjects the applicant to further proof and regulations, and the process goes on and on.

Good legislation is that which is definitive and certain, which narrows down the number of agencies with whom the citizen has to deal, and which produces a decision that is final, that is settled, so that turmoil does not continue on.

This bill will pit agency policy against agency policy as it pits agency against agency.

Congress will, of course, be drawn into the struggles. It proposes in its own terms to draw in the judiciary to unsnarl tangled authorities, claimed priorities and disputing executive departments. It does this through a right granted to this new agency to appeal any other agency's action in which it participated, and under conditions which it did not participate.

Mr. President, if this legislation is enacted it means endless harrassment; it means endless turmoil; it means endless uncertainty for those parts of our economy that want to produce, that want to provide jobs, that want to carry on the commerce, that want to do our building in the country and develop our natural resources, and to do all of the other things that provide jobs and raise our standard of living.

It will be one more agency to throw roadblocks. It will be one more agency to add to the confusion.

I do not know how many hundred thousand businesses there are in the country—maybe it runs into the millions. I am rather astounded that there are only three of them that I ever heard about that are for this bill.

Vast groups of individuals are alarmed as to what this bill will do. It involves agriculture, it involves manufacturing, it involves our health professions, it involves retailers.

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. CURTIS. Mr. President, we should not consider closing debate for a long, long time because to do so will hasten the passage of very bad legislation.

The PRESIDING OFFICER. Who yields time?

Mr. RIBICOFF. Mr. President, I yield 4 minutes to the distinguished Senator from California (Mr. CRANSTON).

Mr. CRANSTON. Mr. President, since 1970, proposals such as the one now before us have been pending before both Houses of Congress.

I think that one of our responsibilities, when we can do it, is to show that Congress can finally act decisively when a matter has been debated, examined, processed through committees, amended, revised, reformed to the point where it is in the fine shape that this measure now is.

Over these 4 years, strong support for an agency to oversee the interests of the consuming public has been demonstrated in the committees and on the floors of both Houses of Congress. Also strong support for the bill has been demonstrated by the American buyer who has no voice as an individual before the awesomely large and complicated Federal regulatory agencies.

The major business concerns have a strong voice. They have at their disposal some of the finest attorneys in the country with large staffs behind them to represent their viewpoints—to bring their strength to bear. The consumer has no such ability to present his viewpoint in an organized, careful way with the support of the great group of talent that is available to huge business concerns of this country when they are promoting their interests.

There plainly is a need for a central coordinating body with the kind of legal and research capabilities that would be available in the Agency for Consumer Advocacy to confront the massive bureaucracy on the scale that has been achieved by private interests, and devel-

oped to such a very fine point over so many years and, indeed, decades in our country.

In the 93d Congress, the House of Representatives has already passed a bill to create a Consumer Protection Agency, and there was overwhelming support shown for that measure in the other body. I think it would be tragic if we allowed ourselves to slip into the 94th Congress still without such an agency. We owe it to the American people to stop the debate. There already has been ample opportunity for discussion, for consideration, for improvement in the measure. It is time to get the Agency put together by passing this measure, by voting cloture so that we can act upon the measure, working out any differences with the House of Representatives and getting it down to the White House, hopefully for signature.

It is very evident by the votes that have already been taken since this measure has been before the Senate that a very substantial, strong majority of us here in the Senate are in strong support of S. 707. The minority has been given ample opportunity to have input, to correct what it has seen as the shortcomings of this bill.

The PRESIDING OFFICER. The time of the Senator has expired.

Who yields time?

Mr. RIBICOFF. I yield 1 more minute.

Mr. CRANSTON. Let it pass. We have discussed it long enough.

I yield.

The PRESIDING OFFICER. Who yields time?

Mr. ERVIN. Does the Senator desire time?

Mr. DOLE. Yes. I am not certain I am going to vote, so I do not know why the Senator would give me time.

Mr. ERVIN. I yield to the Senator 3 minutes.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. DOLE. Mr. President, I am concerned about the need for protecting the consumer. I am also concerned whether this bill actually provides that protection, and my concern now is what impact this measure will have on the American farmer.

The American farmer plays a vital role in the economy of this country and the world. I cannot determine what impact it would have on exports of commodities such as wheat, corn, tobacco, or cotton. Would this Agency have a right to come in and halt or curtail exports in the name of the consumer? It would certainly be cheaper for the consumer in the short run if we do not export. If there is a glut on the market, it drives prices down and makes it much easier for processors and middlemen to purchase farm products cheaply.

In fiscal year 1974 our exports of farm commodities were over $21 billion. Had those exports been held down to a few billion dollars, food might have been somewhat cheaper for the consumer, but our balance of trade and the Nation as a whole would have suffered greatly.

I am seeking information. What power and what right would this Agency have to prevent or control the sale of wheat, for example? We export a great deal of wheat from the State of Kansas. What power would this Agency for Consumer Advocacy have over the sale of wheat and other farm commodities?

Suppose a sale was made by a private grain company to a foreign government, or suppose there was an export subsidy where our Government was involved. Could the Agency review that sale, and hold the sale up so that the foreign buyer might be forced to go to some other country for the purchase?

This question is very important. Next year, it will involve about $21 billion of our economy in farm commodities alone. If it had not been for the agriculture exports last year and the year before, the balance of payments deficit would have been greater than ever. The question is most important to those in rural America, and I simply do not find an answer in the bill. The people and farmers in Kansas and other States deserve an answer to this question.

What power would this Agency have? Can anybody tell me?

Mr. RIBICOFF. I yield myself 2 minutes.

The question raised is a legitimate one. Certainly in the Russian wheat deal, for example, the consumer advocate could have come in and explained why the agreement was a bad one. I think, looking at it from hindsight, the Russian wheat deal was a bad deal for the country, for the farmer, for the consumer.

There are certain issues that are not clear cut. There are certain issues where it is very obvious that there is a consumer interest. But when it comes to the question of trade—whether it involves industrial or agricultural products—there are several sides to the problem. The consumers' interests may not always be clear cut.

I would concede that when the consumer interest is not clear cut, this Agency would come in and lay out to the Agency involved the facts involved on both sides of the question.

In the trade bill that is now before the Committee on Finance, in connection with which the distinguished Senator from Nebraska has played such a major role, we are trying to make sure that there is an input in trade negotiations by labor, by industry, and by agriculture. In the same trade bill, we are making sure that the House of Representatives and the Senate will have a voice in the input. There is no reason why somebody representing the consumers should not come into the proceedings with their thoughts and their advice. This is what the ACA would assure.

As I look at the situation of this Agency, when it came to agriculture, if there were a basic problem involving different consumer interests and the farmer, I would hope that the consumer advocate would come in and give both sides of the question to try to clarify the situation, and to help in the decisionmaking process by the Agency who is to make the final decision.

Mr. PERCY. Will the Senator yield the remaining 30 seconds he has?

Mr. RIBICOFF. I yield.

Mr. PERCY. The question is a very good one, and both Senator RIBICOFF and I have spent many months on the Permanent Subcommittee on Investigations looking into the Russian deal. I think we ought to make it very clear that the Agency for Consumer Advocacy would have no power to do anything to stop such a grain sale. But, it might have asked the questions: What effect is it going to have on the consumer? How much grain are they going to buy? Over how long a period of time? Who is negotiating the deal? Are they free agents, are they full-time Government employees?

They might have discovered that one of them, simultaneous with negotiating the wheat deal, was negotiating a deal to go with one of those very grain companies. Those are the kinds of questions that should be asked on behalf of the consumer.

Mr. RIBICOFF. The question of the distinguished Senator from Kansas is a good one. It is important to keep in mind, however, that as an advocate the Agency will have no power. The Administrator will have no right to issue regulations, to give orders. His role is completely that of an advocate. He will come into the Agency and make his point of view known, and ask the questions, and raise the points, and give the other point of view for the ultimate consideration of the Agency that has the power and authority to make the actual decision.

Mr. DOLE. Will the Senator yield?

Mr. RIBICOFF. I yield.

Mr. DOLE. The Agency would have the power to disclose information; it would have the power, as I understand it, to appeal any action that is taken. It seems to me that there might be a case for the consumer where there is an export subsidy involved, as there was in the Russian wheat sale. I do not think the sale was notorious; it greatly strengthened the price of wheat in my State. That result was good for the entire Nation, not just for Kansas. It has kept our balance of trade out of the red, for example.

Mr. RIBICOFF. The only time that the Agency can appeal is if the matter is otherwise subject to appeal. If another party could not have challenged the wheat deal in court, ACA could not have either.

Nor will the Administrator have the power to disclose privileged information that it has been given by another agency.

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

Mr. RIBICOFF. How much time remains on both sides?

The PRESIDING OFFICER. The Senator from Connecticut has 5 minutes. The Senator from North Carolina has 7 minutes.

Mr. ERVIN. I yield 2 minutes to the Senator from Kansas.

Mr. DOLE. I thank the distinguished Senator from North Carolina for yielding.

I have had an amendment printed for some time, and I have not decided whether to offer it.

Mr. RIBICOFF. I wish to emphasize that if the agency gets a trade secret from an agency and it is a trade secret,

or is otherwise confidential information, the administrator is barred from releasing that information under any circumstances. He can have it, but he has no right to make it public if the host agency determines it is privileged information.

Mr. BUCKLEY. Mr. President, will the Senator yield for a question on that point?

Mr. DOLE. I think I have the floor, and I shall yield to the Senator from New York if I do not run out of my 2 minutes.

Mr. BUCKLEY. Is it not true that an exception can be made where the administrator finds that it is in the public interest and in health and safety to disclose that information?

Mr. RIBICOFF. Not if he receives it from another agency. If he receives it from a source other than another agency, then he can release it only if disclosure is necessary to protect health or safety. If he receives confidential information from another agency, then he has no greater right than that which the agency gives him.

Mr. BUCKLEY. But does he not have the right on his own, independently of the host agency, to seek out that information and then to make public on his own finding as to what constitutes safety?

Mr. RIBICOFF. Only if it involves a consumer interest and the Administrator meets the other requirements laid out in section 11(b). The person who is asked the question need not respond if he does not feel it is proper. He has a right to go to court and object to the request if it exceeds the Administrator's powers.

Mr. BUCKLEY. Therefore, in effect, the administrator, based on his own definition of consumer interest, is allowed to trigger a set of events that can indefinitely delay any matter that he pleases?

Mr. RIBICOFF. Any dispute over the agency's interrogatory powers and section 11(b) will not delay an agency proceeding. The two processes are entirely separate. In addition, do not forget that under the Domenici amendment adopted, by the Senate, small business need not answer the interrogatories. Most businesses in America will be excluded by this amendment from the agency's information gathering powers.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. DOLE. I wonder if I might have 1 minute of the Senator from North Carolina.

Mr. ERVIN. I yield 1 minute to the Senator from Kansas.

Mr. DOLE. The point I want to make is an important point. I appreciate the comments of all the distingiushed Senators. This issue does cause great concern to the farmer or the producer of other commodities, and materials, which are manufactured in this country. There clearly is a consumer interest. There has to be a consumer interest somewhere along the line. What I am concerned about is avoiding restrictions on the producer to the point where it is harmful to consumer interests. We might drive the producer out of business if the consumer interest is going to be the overriding interest in every event.

It seems to me that we may interfere with the trade and export of farm commodities that we have been trying to promote, in every administration.

This year they are expected to be over $20 billion. It might appear to be much cheaper for the consumer to have the farm prices very low, to hold down exports, or to have a food reserve somewhere. But the disincentive to farm production would be more harmful in the end.

Later I plan to offer an amendment to prevent such harmful effects. I am now working on that amendment.

The PRESIDING OFFICER. Who yields time?

Mr. RIBICOFF. How much time do I have?

The PRESIDING OFFICER. Five minutes.

Mr. RIBICOFF. I yield 5 minutes to the Senator from Illinois.

Mr. PERCY. Mr. President, the distinguished Senator from Nebraska has asked several questions about how the Consumer Protection Agency would work. I would like respectfully to point out that 39 States now have consumer protection agencies or agencies with that responsibility. So we have had a kind of test laboratory working for years through the country. Based on that experience, Virginia Knauer, Consumer Adviser to the President of the United States, has very recently reiterated her full support for the creation of this separate agency.

The distinguished Senator from Nebraska mentioned that three businesses were supportive. The Senator from Illinois has just put into the RECORD earlier today a press release by Virginia Knauer on the subject of business support for ACA. Ten additional businesses have expressed in correspondence to Mrs. Knauer their strong support for the Consumer Protection Agency principle. John Hechinger, president of Hechinger's Building Materials, Inc., affirmed his avid support in a letter to me. Also, as the Senator knows, Business Week magazine has editorialized in favor of the Consumer Protection Agency—now renamed Agency for Consumer Advocacy.

The New York Bar Association, the Chicago Council of Lawyers, the Association of Trial Lawyers of America, and the American Bar Association all support this legislation.

I know that the distinguished Senator from New York (Mr. BUCKLEY) has mentioned in his comments that one law school professor was opposed to the bill.

A letter which has just come to my attention is being sent to all Senators by 75 professors of business administration throughout the country, including two professors from the University of Kansas. All of these professors are totally supportive of S. 707 as it stands before the Senate now. They feel that the proposed agency is needed to provide basic fairness in the Federal regulatory process. They also state—

> A firm will be successful only if it focuses all decisionmaking upon the provision of consumer satisfaction. . . . Business, then has a vested interest in making sure the consumer is heard.

Mr. President, the legislation before us has fallaciously been called a superagency with overwhelming resources. It has been charged that ACA would be contrary to the interests of the American business community.

This argument stands in direct contradiction to existing facts. The authorized budget of the proposed Agency for Consumer Advocacy for fiscal 1975 is a relatively meager $15 million in the first year and $25 million in the third year. These are authorizations only. They represent the maximum allowable allocation.

If the history of the slim allocation of funds to consumer programs by the Congress in the past 5 years is any indication, the actual appropriation may be substantially reduced.

Assuming, for the sake of argument, that the authorized $15 million is actually appropriated for fiscal 1975, the figure becomes inconsequential when viewed in the context of the ACA's purpose—the protection of the health and safety and pocketbook of the largest constituency in the Nation, the American consumer. And, the authorized budget of the proposed agency pales in comparison to the budgets of industry and their representative associations—who will join the ACA as parties before Federal regulatory agencies and commissions.

Last year, 1973, the operating expenses for the U.S. Chamber of Commerce totaled $19,160,186—$4 million in excess of ACA's first year authorization. Total expenses in 1972 of the National Association of Manufacturers were slightly over $6.6 million; of the Grocery Manufacturers of America, $1.4 million; and the National Automobile Dealers Association, $3.2 million. The combined expenditures of just these four industry associations exceeds $30 million, twice ACA's first year authorization.

And since corporate contributions to the trade associations are tax deductible as business expenses, the consumer-taxpayer is helping to fund the activities of business lobbyists.

A comparison between the ACA and the corporations which it must scrutinize further repudiates the "superagency" characterization advanced by opponents of the bill. The resources of the ACA are indeed dwarfed by the vast capital and expertise available to these corporations. For example, in 1973, Ford Motor Co.'s operating income was $1.5 billion, 100 times ACA's maximum first year budget. Ford's total assets in that year exceeded $12 billion, 800 times the ACA authorization. Total profits were over $900 million, 60 times the cost of ACA. The ACA "superagency" shrinks into oblivion in comparison to these Ford figures.

General Motors and General Electric are two further examples of the tremendous resources available to business for presenting their views before the Government and the people of this country. General Motors, whose net income in

1973 exceeded $2 billion, annually pays its employees 600 times the ACA's $15 million authorization. General Electric's 1973 net earnings were $585 million, nearly 40 times the maximum appropriation authorized for the ACA in 1975. The list of certain other businesses that could be named with large budgets and small constituencies is endless. Those who suggest that the proposed ACA will overwhelm the business advocates, simply ignore these facts and figures. ACA, a mouse in budgetary terms, must face the lions of U.S. industry.

In addition to the trade associations and the industry itself, there is a third entity whose task is the care and tending of U.S. business—the Federal Government. The Small Business Administration, SBA, a federally funded business advocate, represents some 8 million constituent firms as compared to the 211 million constituents of the ACA. Yet the budgets of the two organizations are highly disproportionate. The ACA would have an "authorized" budget of $15,000,000 compared to the SBA with an actual budget, for administrative expenses alone, in fiscal 1974, of $250,750,000 and a requested appropriation for fiscal 1975 of $447,926,000. These figures do not include the vast sums allocated to the loan program. The enormous disparity between the resources of the two entities shows that the consumer advocate envisioned in S. 707 is hardly of superstatus in terms of available resources.

The 1903 charter of the Department of Commerce states that the Department's purpose is to "foster, promote and develop the foreign and domestic commerce, (and)—manufacturing and shipping—industries of the United States." This is but another example of business interest promotion by the Federal Government. The Commerce Department's 1973 budget of $1.6 billion lists an allocation of nearly $16 million just for "Domestic Business Activities." Such "activities" include the Office of Domestic Business Policy which operates a program of "trade adjustment assistance." The program's stated purposes are to guarantee loans to enable small business to competitively enter foreign markets, to encourage private enterprise, and to provide for business expansion. The Office of Business Research and Analysis and the Office of Field Operations, also funded by this appropriation, each functions as an advisor to the Commerce Department and a contact point between the Department and business.

When questioned as to the Department's responsibility for consumer interests, Phil Stiness, budget officer of Domestic and International Business Administration, referred to the Department's relationship with consumers as an "adversarial" one—"What we are trying to do is help the businessman." While acknowledging that good consumer relations means good business, the Department's advice is:

> Mr. Businessman, you have to pay attention to the consumer [because] the Commerce Department can't be in the business of taking the consumer's point of view.

Who, then, will systematically represent the consumer's interest? There is but one answer—the Agency for Consumer Advocacy. Among the numerous multinational business advocates, including the trade associations, the industries, and the Federal Government, there is not one organization to represent the American consumer effectively. And ACA's opponents do not want one. Some have ridiculed the concept with misstatements about its authorities and scope, and in my judgment wrongly designated this representative of the people as a "super agency." With a maximum first-year budget equal to 2 hours of the Pentagon's annual appropriation and a third-year budget equal to less than 3 hours, such distortions will not hold water.

Reasonable persons recognize the right of the American consumer to a strong and independent voice before the Federal decisionmaking bodies of this country. The public interest must be protected, and that can only be done by striking a fair balance between the legitimate interests of industry and consumers. An agency for Consumer Advocacy will do just that.

I urge my colleagues to address the merits of this legislation by putting a quick halt to the filibuster now in progress. Call it "talkathon," "talkfest," "extended debate" or whatever—a filibuster by any other name is still a filibuster and should be stopped now that a reasonable time has expired for careful consideration of the merits of the issue. This legislation has been debated in Senate committees and on the floor since 1970. It has already passed the Senate by a vote of 74 to 4 in a form very comparable to the bill before the Senate today. It is time now to vote the measure up or down. I urge an "aye" vote so that we may limit further debate to a maximum of 100 hours.

Mr. President, editorial support for an Agency for Consumer Advocacy, formerly titled the Consumer Protection Agency, has been emphatic and widespread. Prominent publications across the Nation have reflected a growing awareness that the consumer lacks adequate representation in the Federal regulatory process. A consensus seems to have emerged that powers granted ACA in both the Senate and House bills are not excessive or "dazzling" as some opponents have charged, but are limited instead to effective consumer protection.

A passage from the July 16, 1974, New York Times typifies expression of these views:

> In any administrative procedure, the presentation of adversary 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 might effect consumers. The Consumer Protection Agency is aimed at correcting this imbalance, not at imposing a veto power or superagency control.

Another point repeatedly made is that responsible business has nothing to lose and everything to gain from the establishment of an ACA. The Agency would be mandated to eliminate consumer abuse perpetrated for the most part by a small minority of businesses. This handful has tainted the good name and standing of the vast majority of American businesses. A primary purpose of ACA would be to restore public confidence in business.

As the Roanoke, Va., World-News put it on April 30, 1974:

> . . . enlightened businessmen . . . 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.

The Washington Post observed on June 29, 1974:

> . . . the consumer protection agency will actually help the business community, because consumer trust leads to economic results. It is the oldest truth in the marketplace.

Mr. President, I ask unanimous consent that the letter from 75 professors of business administration I referred to in my remarks as well as a number of editorials from outstanding publications across the country be printed in the RECORD at this point. The letter is dated July 19, 1974. The editorials are from the June 29, 1974, Washington Post; the May 27, 1974, Fort Wayne Journal Gazette; the April 15, 1974, Providence Bulletin; the April 14, 1974, Los Angeles Times; the April 30, 1974, Roanoke World-News; the April 22, 1974, Fresno Bee; the April 17, 1974, Springfield News; the April 13, 1974, St. Louis Post-Dispatch; the May 4, 1974, Nation; the April 15 and 16, 1974, Denver Rocky Mountain News; the May 28, 1974, Atlanta Journal-Constitution; the July 16, 1974, New York Times; and the July 28, 1974, Chicago Sun-Times.

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

JULY 19, 1974.

DEAR SENATOR PERCY: We are professors of business administration, and we urge you to vote for S. 707. We also urge you to vote for cloture on the filibuster as we feel the bill should be voted on by the Senate on its merits.

The bill is not anti-business. The bill will not grant the Consumer Protection Agency any regulatory power. The marketing concept has been taught as a cornerstone of business school curricula for more than a decade. It holds that the firm will be successful only if it focuses all decision-making upon the provision of consumer satisfaction at a profit. While some few firms may survive by ignoring the consumer interest, the enlightened approach is to provide goods and services which satisfy real consumer needs. Business, then, has a vested interest in making sure the consumer is heard.

The bill will provide that consumers are adequately represented in the Federal Government and will provide a central clearing house for consumer information. The bill will give consumers one effective link with Washington, rather than the many uncoordinated operations we have now. The bill also will provide for much needed research on consumer interests.

Each time a consumer agency bill has been

voted on its merits it has passed. We hope that you will see your way clear to allow this bill to be voted on its merits. Please, vote for cloture. Please, vote for S. 707.

Respectfully yours,

Gary Klein, California State University, Long Beach.
Forest E. Harding, California State University, Long Beach.
Barbara C. George, California State University, Long Beach.
Braxton Henderson, California State University, Long Beach.
Robert W. Frye, California State University, Long Beach.
William K. Brandt, Columbia University.
Donald R. Lehmann, Columbia University.
Neil Beckwith, Columbia University.
John Miller, Drake University.
Scott Ward, Harvard University.
Bradley Lockeman, Idaho State University.
Frank K. Schuhmann, Idaho State University.
George A. Johnson, Idaho State University.
Lance Jarvis, Idaho State University.
Ralph Day, Indiana University.
Stanley F. Stasch, Northwestern University.
Louis W. Stern, Northwestern University.
Sidney J. Levy, Northwestern University.
Phillip Kotler, Northwestern University.
Brian Sternthal, Northwestern University.
William Zikmund, Oklahoma State University.
Jerry Olson, Pennsylvania State University.
H. Lee Mathews, Pennsylvania State University.
Edward L. Grubb, Portland State University.
Robert Settle, San Diego State University.
Tom Atchison, San Diego State University.
Robert A. Trippi, San Diego State University.
Thomas R. Wotruba, San Diego State University.
Joseph J. Vidali, San Diego State University.
John M. McFall, San Diego State University.
Donald A. Lindgren, San Diego State University.
James E. Williamson, San Diego State University.
William W. McKelvey, University of California, Los Angeles.
J. Morgan Jones, University of California, Los Angeles.
James R. Bettman, University of California Los Angeles.
Richard J. Lutz, University of California, Los Angeles.
Harold H. Kassorjean, University of California, Los Angeles.
E. Laird Landon, Jr., University of Colorado.
Richard W. Beatty, University of Colorado.
Philip R. Cateora, University of Colorado.
Charles R. Goeldner, University of Colorado.
Morris G. Massey, University of Colorado.
David H. Bowen, University of Colorado.
Richard D. Spinetto, University of Colorado.
Donald P. Stegall, University of Colorado.
Thomas A. Buchman, University of Colorado.
John M. Hess, University of Colorado.
David F. Rush, University of Colorado.
Donald R. Plane, University of Colorado.
Thomas E. Hendrick, University of Colorado.
Donald J. Hempel, University of Connecticut.
Joel Cohen, University of Florida.
V. Parker Lessig, University of Kansas.
John O. Tollefson, University of Kansas.
M. Venkatesan, University of Iowa.
E. John Koffman, University of Iowa.
Philip Kuehl, University of Maryland.
Kent Monroe, University of Massachusetts.
James R. Taylor, University of Michigan.
Ivan Ross, University of Minnesota.
Orrville Walker, University of Minnesota.
John R. Rossiter, University of Pennsylvania.
Thomas S. Robortson, University of Pennsylvania.
Bobby Calder, University of Pennsylvania.
Allan Shocker, University of Pittsburgh.
James Clapper, University of South Carolina.
William Lieb, University of South Carolina.
John Willenborg, University of South Carolina.
Ardie Woodside, University of South Carolina.
Ron Moser, University of Tennessee.
George Brooker, University of Wisconsin.
Keith Hunt, University of Wyoming.

[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 adversary 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.

[From the Washington Post, June 29, 1974]

LOBBYING AGAINST THE CONSUMER

As predicted, an energetic campaign is being waged against legislation that would create the consumer protection agency. Lobbyists representing the Chamber of Commerce, the National Association of Manufacturers, several other trade groups and such corporations as Exxon, United Airlines, Firestone and Greyhound have been busy pressuring a number of uncommitted senators to vote against the bill when it reaches the Senate floor in a few weeks. The idea of the proposed agency—its general function would be to act as a consumer advocate or ombudsman, before other federal agencies, and would have no regulatory powers—has been around for five years. To date, business groups have managed to play a role in preventing enactment. This time, only some last-ditch manipulations are possible, because the House has already passed a progressive bill by 293 to 94 and the Senate Government Operations Committee approved a version by 9 to 3.

The business representatives now in full scurry should be placed in context. Emphatically, they do not represent the entire business community, only its most backward segment. As for the forward segment, it has been making itself heard in significant ways. Edward Donnell, board chairman of Montgomery Ward, recently noted in a letter to former business executive Sen. Charles H. Percy (R-Ill.): "Montgomery Ward did not take an affirmative position on the Consumer Protection Agency bill for publicity purposes . . . We did it because we believe that the consumer's trust is an invaluable business asset. In our opinion, consumers who don't feel suspicious of business and government—who don't feel shut out and unrepresented in government proceedings that affect their pocketbooks, their well-being and the quality of their lives—will be better customers of ours and other businesses which are in fact trying to serve them well."

The point Mr. Donnell makes is clear: the new consumer protection agency will actually help the business community, because consumer trust leads to economic results. It is the oldest truth of the marketplace, that the merchant who is honest, fair and accountable is the one who enjoys a good trade. Only recently has this changed, when so many corporations have been marketing goods that kill, injure and cheat the customer that often the customer has no choice among the evils.

In supporting the new agency, firms like Montgomery Ward display not only an enlightened view but they rebuke the anti-customer attitudes pushed by those who fear a new era of marketplace fairness.

[From the Chicago Sun-Times, July 28, 1974]

NEEDED: A STRONG CONSUMER BILL

By threatening to veto a consumer protection bill now being debated in the Senate, President Nixon has cast a pall over prospects for a strong consumer protection agency in this country. Encouraged by the President's opposition, conservative opponents have been filibustering in the hope of killing the measure, which was its fate in 1972. This should not happen. Federal regulatory agencies have not done a responsible job in protecting the consumer, and a strong and independent agency is clearly needed.

The Agency for Consumer Advocacy (previously known as the Consumer Protection Agency) would have the power to guard consumer interests within and outside the federal regulatory agencies. It would have the authority to appeal anti-consumer decisions of these agencies and to subpena information from them. Opponents object to the provision that the ACA could demand information directly from businesses, which would be required to respond. A House bill, without the same strengths although more palatable to the administration, would make an intermediary necessary. It also would give the President power to choose and dismiss the administrator of ACA, which would greatly decrease the independence of the agency.

ACA sponsors, including Sen. Charles H. Percy (R-Ill.), are pushing for a vote to end the filibuster on Tuesday. They have made it clear they are willing to compromise rather than see the bill die. Consumers would be well served by an independent organized lobby put together as soundly as ACA. The legislation should be allowed to stand on its own merits and go to a full vote of the Senate as quickly as possible.

[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, Marcor, 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 president 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 independent 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 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 indictment 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 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 carefully drawn a 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 the 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 anticonsumer, soliciting action by other agencies on behalf of the consumer 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 Fresno (Calif.) Bee, Apr. 22, 1974]

POWER IN THE MARKETPLACE

The House of Representatives, realizing the marketplace still contains many products and services which are unsafe or unhealthy, acted in the best interest of the buying public in passing a bill to establish an independent federal Consumer Protection Agency.

The measure now goes to the U.S. Senate where quick and favorable consideration is likely.

For years various proposals for such an agency have been debated, lobbied for and against and have been defeated in Congress.

While there seems to have been little disagreement about the need for such an agency —the horror stories about unsafe and unhealthy products sold across the counter are legion—there has been strong disagreement on just how much a consumer advocate such an agency should be.

The federal government has for a long time made important decisions involving the availability and safety of thousands of products and services. Lawyers, economists, lobbyists and others representing special interests, are always on hand to present arguments to the federal decision-making agencies. If the House bill becomes law, the special interest lobbyists would be challenged by knowledgeable consumer advocates, representing the people.

One of the criticisms of the bill is that somehow it is antibusiness. Why would giving the consumer a voice before the regulatory agencies be a threat to business?

The proposed agency would have no power to regulate business, only power to advocate before federal agencies on behalf of the consumer.

This is no more than what private interest advocates now enjoy. Why not have an advocate in the public interest?

Another beneficial aspect of the legislation is that it would bring into the open the way in which federal agencies make far-reaching decisions affecting the consumer and the business interests.

If ever there was a time when government-industry dealings should be made more visible, more public, that time is now.

[From the Springfield (Ohio) News, Apr. 17, 1974]

CONSUMER BILL

After more than a decade of legislative maneuvering, consumer advocates in the House have passed a bill to set up a federal consumer protection agency. Passage of a similar bill in the Senate is likely.

The bill will please neither Richard Nixon nor Ralph Nader, but it is a good one. The new agency's main job would be to stick its nose into the affairs of other federal agencies to make sure the consumer's interest is not being steamrollered. It often is.

Even in the regulatory agencies established to protect the public interest—the Interstate Commerce Commission and the Food and Drug Administration, for instance—end up being run by the people they're supposed to regulate. The consumer protection agency would be able to intervene in the affairs of such agencies and challenge their actions in court. An excellent idea.

[From the St. Louis (Mo.) Post Dispatch]

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 interest 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.

* * * * *

[From the Nation, May 14, 1974]

CONSUMERS MAY GET A BREAK

It looks as if legislation to create a Consumer Protection Agency (CPA) will be enacted. Unless the bill, whose chief sponsor is Rep. Benjamin S. Rosenthal (D., N.Y.) is hobbled by amendments, the traditionally helpless mass of consumers may achieve a status approaching parity with business and labor. This blessing we shall owe to inflation. *Business Week* (March 30) quotes a U.S. Chamber of Commerce lobbyist: "With prices soaring the way they are, anything labeled 'consumer protection' is going to be hard to stop."

The importance of the measure is that it will give legal standing to the consumer as a "party of interest" in proceedings before numerous federal agencies. A typical instance is the right of the CPA to testify at a Department of Agriculture hearing on conditions in meat-packing plants, or at proceedings before the Civil Aeronautics Board. Nor would the CPA have to wait for others to initiate action: it could request any agency to take up consumer compaints within its jurisdiction, all for judicial review of federal agency decisions, seek information from industry to carry on investigations, request the National Bureau of Standards or other testing agencies to evaluate consumer products and make the results public, etc.

The bill has strong support, but it is not home safe. It has already been modified to meet business objections, but the Chamber of Commerce, the National Association of Manufacturers and the Grocery Manufacturers of America still are, or profess to be, unhappy about it.

However, Representative Rosenthal succeeded in compromising with Rep. Chet Holifield (D., Calif.), who felt that in its original form the bill might harm business interests, and President Nixon's consumer adviser, Mrs. Virginia H. Knauer, has come out for passage—thereby perhaps neutralizing Roy L. Ash, the powerful director of the Office of Management and Budget. Ash, who still sees the world from the vantage point of Litton Industries, was criticized by Holifield and by Rep. Frank Horton of New York, the senior Republican on the House Government Operations Committee. The CPA measure (HR 13163) came to the floor with 36-to-3 committee approval and has been adopted by the House. In the Senate it has won approval of the Commerce Committee—which has a somewhat different measure of its own on the same subject—and a subcommittee of the Commitee on Government Operations. It is now pending before the full committee but should be reported out for a vote in the next two weeks. Since it would be rather sticky for the President to veto such a measure—it calls for only a small budget of something like $20 million—its chances for adoption are good. But until it is finally passed and signed by the President, interested groups should not forget about it.

[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.

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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 El Paso (Tex.) Herald-Post Apr. 15, 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.

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[From the Atlanta (Ga.) Journal-Constitution]

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 representatives 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.

Mr. HASKELL. Mr. President, the Agency for Consumer Advocacy, in my opinion, recognizes the fact that, in spite of much new consumer protection legislation, consumers simply do not get the protection they need—and have been promised. It also recognizes that too often there is a close relationship between regulatory agencies and the industries they regulate. That relationship can easily be harmful if it is not balanced by other points of view, in this case the consumer's—certainly every bit as important as those of regulated industries.

The ACA would be charged with receiving and transmitting the complaints of consumers, developing and disseminating information of interest to consumers and performing whatever advocacy functions are necessary to protect consumers' interests.

One of the key provisions of the bill, in my opinion, is the consumer complaint process. Now, if a consumer feels he has been mistreated, it is up to him to sort out the maze of agencies to determine where to take his problem.

Under the Agency for Consumer Advocacy Act, the Administrator is required to transmit all written complaints to the appropriate agency—Federal, State, or local. He is also required to promptly notify any producer, distributor, retailer, lender, or supplier of goods and services when a significant complaint is lodged against him. In cases which allege criminal conduct, the Administrator may refer the case to the Justice Department for action.

Those of us in Congress will be able to keep track of those complaints and help the new agency prod the appropriate officials who are inclined to do nothing unless pushed.

The act also gives the Agency for Consumer Advocacy the right to intervene in all Federal court suits or in any Federal agency action which may affect the interests of consumers.

Adequate funding would be given the agency, starting with $15 million the first year, $20 million the next, and $25 million by its third year of operation.

I am delighted to be a cosponsor of this long-overdue legislation to give consumers a strong voice on issues which affect them before government and the courts.

Mr. CHILES. Mr. President, I intend to vote against the motion to invoke cloture on S. 707, the consumer protection bill. I am taking this action because I do not feel we have reached a point in debate on this bill where all the issues relevant to this legislation have been fully aired and discussed.

As we all know, the establishment of an agency for consumer advocacy is a matter of no little controversy and I think we need to insure that all viewpoints are heard and considered before coming to a final vote. Since we have been operating on a two-track system and there continue to be amendments to the bill, I would not yet characterize the ongoing debate as a filibuster.

I would hope that my vote in this regard will not be misconstrued as a vote against the consumer protection bill. I support the bill as reported out of the Government Operations Committee and will vote for a cloture motion when it becomes apparent that constructive debate has been completed or that a filibuster is in progress.

CONSUMER PROTECTION: NEW JERSEY ACTS

Mr. WILLIAMS. Mr. President, for 5 years we have discussed, debated, and analyzed every section and line of the Consumer Protection Agency bill without producing a final product. The longer we delay final action, the longer we deny consumers the right to have an advocate to represent their interests before our administrative agencies and courts of appeal. While we have been deliberating over the years, the State of New Jersey has established a department of the public advocate which in many ways parallels S. 707 and in some ways it creates a stronger advocate than the CPA.

The Department of the Public Advocate Act 1974, which was signed into law May 13 by Gov. Brendan T. Byrne, establishes a department of the public advocate with authority to represent and protect the public interest in ratemaking proceedings and other administrative or judicial proceedings. The "public interest," which the public advocate is charged with representing, is defined as "an interest or right arising from the Constitution, decisions of court, common law, or other laws of the United States or of this State inhering in the citizens of this State or in a broad class of such citizens." The public advocate can intervene or refrain from intervening in these proceedings in the sole discretion.

Like the proposed CPA, the public interest advocate has the authority to intervene in the administrative agency decisionmaking process and court proceedings. He has discretion to choose the interest of the public which he will press before administrative and judicial tribunals. The decision to intervene or to refrain from intervening lies in his sole discretion, and thus is immune from judicial review. Unlike the CPA, no New Jersey agency can exclude the public interest advocate from its proceedings on the ground that he improperly identified the interest which he has chosen to represent.

The public interest advocate's ability to obtain judicial review of agency decisions with which he disagrees is substantially broader than the authority of the CPA. The CPA must petition for reconsideration or rehearing before it may initiate a proceeding for judicial review; the public interest advocate need not. The CPA may be barred from intervening in a proceeding for judicial review, where it did not intervene in the agency proceeding below, if the court determines that CPA participation would adversely affect the interest of justice; the public interest advocate is not subject to this restriction. The public interest advocate has full, unfettered authority to challenge a questionable agency decision.

If the CPA receives complaints from consumers, it can do little more than refer the complaint to a Federal or State agency charged with enforcing relevant laws, or petition the agency to take appropriate action to remedy the situation. If the agency refuses to take the requested action, it need only notify the CPA in writing of the reasons for not acting. CPA has no authority to compel another Federal agency to take action to remedy a specific consumer grievance.

The division of citizen complaints, by contrast, has the authority to investigate any complaint from any citizen relating to the action or inaction of a State agency. If the division determines that the agency's action or failure to act is unjustified, it may notify the public advocate. The public advocate can then turn the results of the investigation over to the division of public interest advocacy which has the authority to institute a proceeding before any department, commission, agency, or board of the State with responsibility for resolving such complaints.

Mr. President, the New Jersey statute is the leading example of a progressive trend in providing representation for the public interest. Without unnecessary ado, the New Jersey Legislature, and Governor Byrne, have acted decisively to enact legislation to protect its citizens, before State governmental agencies. Other States will undoubtedly follow its lead. After 5 years we can no longer argue that the issue of consumer advocacy before Federal agencies needs to be thoroughly discussed and debated. It has been thoroughly aired, and we would do well to follow New Jersey's lead.

Mr. ERVIN. Mr. President, I yield the remaining time at my disposal to the Senator from Alabama.

Mr. ALLEN. I thank the Senator from North Carolina.

Mr. President, what the consumer needs is protection from inflation. He does not need a great new bit of Federal bureaucracy established, costing tens of millions of dollars. As a matter of fact, there is an authorization of $60 million here for the next 3 years, and waiting in the wings is an amendment that would add another $61 million to the authorization for grants to local agencies, State agencies, and private agencies.

Adding to the Federal bureaucracy is not what we need. We need to cut back on the Federal bureaucracy. It is not a Consumer Protection Agency. The Senate recognized that by changing the name from Consumer Protection Agency to Agency for Consumer Advocacy. Certainly, that is what it is.

No, they want a bigger game than to have a Consumer Advocacy Agency or even a Consumer Protection Agency.

Mr. Ralph Nader has said that the purpose of legislation of this sort is to reform the Government apparatus, to revolutionize Government.

I do not want to revolutionize government along the lines that Mr. Nader might suggest.

I might point out one other thing, Mr. President, it has been suggested that this legislation has been before the Senate since 1970, when a bill was passed by a vote of 70 to 4, as the distinguished chairman of the committee said. The chairman stated that in 1970 he was able to get three other Senators to vote against the bill. I am proud to say that I was one of those who was convinced that the bill was bad.

I might say that that bill failed passage, and the people who were happiest about the failure, on final analysis, were these very people who were advocating the passage of the bill. They recognized that it was unsound. So it is not the same bill at all.

Take the 1971 bill that was passed in the House and did not pass in the Senate. Mr. Nader called that a fraud on consumers. Apparently, those of us who did have a little something to do with defeating the bill in 1972—the House bill of 1971 which failed passage here in 1972—actually must have been on the same side as Mr. Nader on that because he thought that bill was a fraud on that because he thought that bill was a fraud on consumers.

The bill did not come up in 1973, but here it is now.

As the chairman pointed out, apparently the opposition to the bill is growing because there were only four against the 1970 bill that was so bad, even according to the present sponsors of this legislation. Now it has grown to where, apparently, the bill was defeated by extended debate in 1972. We are hopeful, of course, that we will be able to beat it on an up and down vote in the Senate at this time. If we progress as much as we did from 1970 and 1972, we will be able to do that—as more Senators realize the danger in the bill, the fact that this bill would authorize one person to decide what is for the benefit of all consumers in the country and that there would be no appeal from his decision, no input into that agency. Everybody gets consumer input but the ACA, the Agency for Consumer Advocacy. All other agencies have consumer input. But the Administrator of ACA is not advised as to what his consumers want to do. He does not call on them for advice. He is a one-man whiz kid who decides what is good for all consumers. Not all consumers think alike.

The PRESIDING OFFICER. The time of the Senator has expired.

The time for debate having expired, the Chair, pursuant to Rule 22, lays before the Senate the pending cloture motion, which the clerk will state.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate upon 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.

1. James Abourezk.
2. Jacob K. Javits.
3. George McGovern.
4. Gale W. McGee.
5. Mike Mansfield.
6. William D. Hathaway.
7. Hubert H. Humphrey.
8. Harold E. Hughes.
9. Gaylord Nelson.
10. Philip A. Hart.
11. Edward M. Kennedy.
12. Charles H. Percy.
13. Clifford P. Case.
14. Abraham Ribicoff.
15. Alan Cranston.
16. Warren G. Magnuson.
17. James B. Pearson.
18. Hugh Scott.
19. Lowell P. Weicker, Jr.
20. Mark O. Hatfield.

The PRESIDING OFFICER. Pursuant to rule 22, the Chair now directs the clerk to call the roll to ascertain the presence of a quorum.

The second assistant legislative clerk called the roll, and the following Senators answered to their names:

[No. 335 Leg.]

Abourezk	Fulbright	Montoya
Aiken	Goldwater	Moss
Allen	Gravel	Muskie
Baker	Griffin	Nelson
Bartlett	Gurney	Nunn
Bayh	Hansen	Packwood
Beall	Hart	Pastore
Bellmon	Hartke	Pearson
Bennett	Haskell	Pell
Bentsen	Hatfield	Percy
Bible	Hathaway	Proxmire
Biden	Helms	Randolph
Brock	Hollings	Ribicoff
Brooke	Hruska	Roth
Buckley	Huddleston	Schweiker
Burdick	Hughes	Scott, Hugh
Byrd, Harry F., Jr.	Humphrey	Scott, William L.
Byrd, Robert C.	Inouye	Sparkman
Cannon	Jackson	Stafford
Case	Javits	Stennis
Chiles	Johnston	Stevens
Church	Kennedy	Stevenson
Clark	Long	Symington
Cotton	Magnuson	Taft
Cranston	Mansfield	Talmadge
Curtis	Mathias	Thurmond
Dole	McClellan	Tower
Domenici	McClure	Tunney
Dominick	McGee	Weicker
Eagleton	McGovern	Williams
Eastland	McIntyre	Young
Ervin	Metcalf	
Fannin	Metzenbaum	
	Mondale	

The PRESIDING OFFICER (Mr. HELMS). Pursuant to rule XXII, a roll-call has been had, and a quorum is present.

VOTE

The question before the Senate is, is it the sense of the Senate that debate on 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, shall be brought to a close?

Mr. PASTORE. Mr. President, may we have order? Will Senators please take their seats?

The PRESIDING OFFICER. The Senate will be in order.

Mr. GOLDWATER. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. GOLDWATER. Has the Chair used the correct name of the agency?

The PRESIDING OFFICER. The title has not been changed.

Mr. GOLDWATER. It has not been changed?

The PRESIDING OFFICER. That is correct.

Order has been requested. Senators will take their seats.

On this question, the yeas and nays are mandatory under the rule. The clerk will now call the roll.

The legislative clerk called the roll.

Mr. GRIFFIN. I announce that the Senator from Kentucky (Mr. COOK), and the Senator from Hawaii (Mr. FONG), are necessarily absent.

I further announce that, if present and voting, the Senator from Kentucky (Mr. COOK), would vote "yea."

The yeas and nays resulted—yeas 56, nays 42, as follows:

[No. 336 Leg.]

YEAS—56

Abourezk	Huddleston	Nelson
Bayh	Hughes	Packwood
Bentsen	Humphrey	Pastore
Biden	Inouye	Pearson
Brooke	Jackson	Pell
Burdick	Javits	Percy
Case	Kennedy	Proxmire
Church	Magnuson	Randolph
Clark	Mansfield	Ribicoff
Cranston	Mathias	Roth
Domenici	McGee	Schweiker
Eagleton	McGovern	Scott, Hugh
Gravel	McIntyre	Stafford
Hart	Metcalf	Stevenson
Hartke	Metzenbaum	Symington
Haskell	Mondale	Tunney
Hatfield	Montoya	Weicker
Hathaway	Moss	Williams
Hollings	Muskie	

NAYS—42

Aiken	Cotton	Long
Allen	Curtis	McClellan
Baker	Dole	McClure
Bartlett	Dominick	Nunn
Beall	Eastland	Scott, William L.
Bellmon	Ervin	Sparkman
Bennett	Fannin	Stennis
Bible	Fulbright	Stevens
Brock	Goldwater	Taft
Buckley	Griffin	Talmadge
Byrd, Harry F., Jr.	Gurney	Thurmond
Byrd, Robert C.	Hansen	Tower
Cannon	Helms	Young
Chiles	Hruska	
	Johnston	

NOT VOTING—2

Cook	Fong

The PRESIDING OFFICER. On this vote, there are 56 yeas and 42 nays. Two-thirds of the Senators present and voting not having voted in the affirmative, the cloture motion is rejected.

EXPORT ADMINISTRATION ACT AMENDMENTS OF 1974

The Senate continued with the consideration of the bill (S. 3792) to amend and extend the Export Administration Act of 1969.

The PRESIDING OFFICER. Under the previous order, the Senate returns to its consideration of S. 3792. The clerk will report the bill by title.

The legislative clerk proceeded to read.

The PRESIDING OFFICER. The clerk will suspend until the Senate is in order.

The Senate will be in order.

The clerk will report.

The legislative clerk read as follows:

S. 3792, a bill to amend and extend the Export Administration Act of 1969.

EXTENSION OF THE DEFENSE PRODUCTION ACT OF 1950

Mr. JOHNSTON. Mr. President, I send to the desk a joint resolution to extend the Defense Production Act for 60 days, until September 30, 1974, and I ask unanimous consent for its immediate consideration.

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

There being no objection, the Senate proceeded to consider the joint resolution (S.J. Res. 228) to extend the expiration date of the Defense Production Act of 1950, which was read the first time by title and the second time at length.

Mr. JOHNSTON. The Senate has completed its action on a bill to extend and amend the Defense Production Act. I understand that the House will take up a similar bill later this week. Therefore, this joint resolution is needed to assure the continuing authority of the act.

The PRESIDING OFFICER. The joint resolution is open to amendment. If there be no amendment to be proposed, the question is on the engrossment and third reading of the joint resolution.

The joint resolution (S.J. Res. 228) was ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the first sentence of section 717 (a) of the Defense Production Act of 1950 is amended by striking out "July 30" and inseritng in lieu thereof "September 30".

Mr. JOHNSTON. I thank the Senator.

AGRICULTURE DEPARTMENT-ENVIRONMENTAL AND CONSUMER APPROPRIATIONS, 1975—CONFERENCE REPORT

Mr. McGEE. Mr. President, I submit a report of the committee on conference on H.R. 15472, and ask for its immediate consideration.

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

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate 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 having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Is there objection to the consideration of the conference report?

There being no objection, the Senate proceeded to consider the report.

(The conference report is printed in the House proceedings of the CONGRESSIONAL RECORD of July 25, 1974, at pages 25210–25214.)

Mr. McGEE. Mr. President, the conference report on agriculture-environmental and consumer protection appropriations for 1975——

The PRESIDING OFFICER. Will the Senator suspend until we gain a modicum of order in the Senate. The Senators are requested to take their conversations to the cloakroom. The Senator from Wyoming is entitled to be heard.

The Senator from Wyoming is recognized.

Mr. McGEE. Mr. President, one more time. The appropriation conference report for agriculture-environmental affairs and consumer affairs contains a request or an appropriation for $13.5 billion.

Now, to place that $13.5 billion in perspective, we ought to bear in mind that while it is $3 billion above a year ago, for a lot of the obvious reasons, it is $166 million over the House and $96 million under what the Senate recommended a few days ago. It is $138 million over the budget.

Now, I might quickly explain that it is that much over the budget for only one reason. The administration requested a special emergency addition after the budget was drawn of $100 million in the section 32 funds due to the drawdown on those funds, and that was granted by both Houses.

Therefore, it is actually only about $38 million plus over the budget in a $13.5 billion total.

Mr. President, the bill as agreed to and recommended by the conference committee provides for new budget authority for fiscal year 1975 totaling $13,571,395,000. This is $2,983,294,000 more than was appropriated for this bill in fiscal 1974. It is $138,531,900 more than the budget estimate for fiscal 1975 and is $165,975,000 more than was provided in the House bill for fiscal 1975. It is $96,002,300 less than was approved in the Senate bill when this matter was considered on the floor of the Senate on July 22, 1974.

As my colleagues are aware, this bill passed the Senate on July 22, 1974, and during the course of our floor deliberations the Senate added $11,045,000 to the bill as it was reported from the Senate Appropriations Committee. The Senate-passed figure put us $234,534,200 over the budget estimate for fiscal 1975, and $261,977,300 over the House-passed bill. Following Senate passage we took this bill to conference committee and agreed to the conference report and conference totals after an all-day session on Thursday, July 25. As usual, the House conferees led by their very distinguished and able chairman (Mr. WHITTEN) proved to be skillful and tough negotiators. As a result, many of the Senate additions, both those which were added in committee and those which were added on the floor, were reduced substantially and in some cases eliminated entirely. Very frankly, the Senate felt compelled to yield on some items about which we felt very strongly and about which several individual members of the Senate committee felt strongly. It was apparent, however, that had we not yielded on some of these matters we simply would not have agreed on a conference report and in all probability would not have had an appropriations bill for the current fiscal year until sometime considerably later in the year. Overall, however, we feel the bill as approved by the conference committee is a good bill and one that should be enacted as quickly as possible so that the various agencies involved can commence to operate under a regular appropriations bill, rather than being forced to continue to operate on a continuing resolution which I am sure most people will agree is unsatisfactory to all concerned.

In view of the current fiscal situation facing this country, and indeed the entire world, which was discussed in some detail when we considered the Senate bill on July 22, it was difficult and indeed, somewhat impractical for the Senate to insist on holding all of the Senate additions, although we were able to do so in some selected cases.

The principal item of increase, both over the House bill and the budget estimate is an amendment which was adopted on the floor of the Senate which in effect, provided an additional $100 million for the child nutrition and school lunch programs. As I explained in some detail when we considered this matter earlier, this was a matter that arose following committee action on the bill. As I explained, the Department conducted a detailed review of the section 32 program and determined that recent legislative action increased the obligations for section 32 funding by approximately $259,000,000. As a result of these congressionally mandated expenditures from section 32, the Department concluded that the section 32 account reflected a deficit of $89 million rather than the $170 million surplus which was originally projected in the 1975 budget estimate. While we did not have time to obtain a budget estimate amendment on this item, it was concluded that the request of the Department should be accepted. To my knowledge, it was ac-

cepted without objection from anyone in either House of Congress. Accordingly, therefore, this $100 million Senate amendment was accepted by the conference committee.

Mr. President, I ask unanimous consent that a copy of a letter I received from Secretary of Agriculture Butz, dated July 17, 1974, in which this matter is discussed in further detail be included in the RECORD at this point.

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

DEPARTMENT OF AGRICULTURE,
Washington, D.C., July 17, 1974.

Hon. GALE W. MCGEE,
Chairman, Subcommittee on Agriculture, Environmental and Consumer Protection, Committee on Appropriations, U.S. Senate.

DEAR MR. CHAIRMAN: The Congress recently enacted Public Law 93-326, The National School Lunch and Child Nutrition Act Amendments of 1974. This Act seriously affects Section 32 funds available to the Department of Agriculture during fiscal year 1975. This letter is in keeping with our policy of advising you of significant changes in USDA funding as they occur.

For fiscal year 1975, the new law provides that:

The national average value of donated foods, or cash payments in lieu thereof, shall not be less than 10 cents per lunch. The law requires that to the extent that commodities are not donated to the schools in an amount equal to at least 10 cents per lunch the difference will be paid from Section 32 funds. It is estimated that the cost of this provision will be $120 million more than was included in the budget in 1975.

The authorization for the Special Supplemental Food Program for Women, Infants, and Children be increased to $100 million and that if this amount is not provided by direct appropriation by August 1, this amount shall be taken from Section 32 funds. This is $60 million more than was included in the budget.

The Secretary shall give special emphasis to high protein foods, meat and meat alternates. These are the types of food which are normally purchased from Section 32 funds. To provide these foods it is estimated that $76 million in commodities will be switched from Section 416 to Section 32.

In addition, the report of the Senate Appropriations Committee added $2.8 million for the Section 32 Special Feeding Program. The net effect of these changes is to increase the Department's requirements for Section 32 funds in fiscal year 1975 by about $259 million.

Prior to the new law, we had estimated that approximately $170 million would be available from Section 32 during 1975 above the amount projected in the 1975 budget to meet unanticipated surplus removal requirements during the year. In view of the new law, we will not have funds available for additional surplus removal should this become necessary. In fact, we will begin the year with an anticipated $89 million deficit in the Section 32 account.

Attached is a table which describes in detail the proposed uses of Section 32 funds during fiscal year 1975 with a list of the changes brought about because of Public Law 93-326.

A similar letter is being sent to Senator Fong and to Congressmen Whitten and Andrews.

Sincerely,

EARL L. BUTZ,
Secretary.

CURRENT STATUS OF SECTION 32 FUNDS, FISCAL YEAR 1975

SOURCES OF FUNDS	
1975 appropriation (actual)	$1,019,207,831
Estimated carry over from 1974	168,599,146
Total estimated available	1,187,806,977
USES OF FUNDS	
Transfer in appropriations or other acts to:	
Child nutrition program	705,926,000
Agricultural Research Service	15,000,000
Foreign Agricultural Service	3,117,000
Commerce (Fisheries)	7,750,526
Budgeted within section 32 for:	
Special feeding program:	
Nonschool summer program	50,600,000
Nonschool year around program	39,000,000
Women's, infant's, and children's program	40,000,000
Pilot food certificate program	1,000,000
Operating expenses	800,000
Total, special feeding program	131,400,000
Direct purchase and distribution to:	
Schools	96,572,000
Supplemental package	15,000,000
Families	29,705,000
Subtotal	141,277,000
Financial assistance to States	2,000,000
Operating expenses	7,798,000
Marketing agreements and orders	3,888,000
Total	286,365,000
Balance before new legislation and recent decisions	169,650,451
1. Requirements of new subsection (e) of section 6 of the National School Lunch Act—the national average volume of donated foods, or cash payments in lieu thereof, shall not be less than 10 cents per lunch and subsection (c) that the Secretary until such time as a supplemental appropriation may provide additional funds . . . shall use funds appropriated by section 32	+120,000,000
2. Requirement of new subsection (e) of section 6 that "among those commodities delivered under this section the Secretary shall give special emphasis to high protein foods, meats, and meat alternatives. Shift of funds from section 416 to section 32	+76,000,000
3. Section 6 of Public Law 93-326 which amended section 17(b) of the Child Nutrition Act of 1966, as amended, and which authorizes an appropriation of $100 million for the special supplemental food program for women, infants, and children and provides that if such sum has not been appropriated by August 1, the Secretary shall use $100 million out of funds appropriated by section 32	+$60,000,000
4. Amount of increase provided by the section 32 special feeding program	+2,800,000
Current estimated deficit	−89,149,549

Mr. MCGEE. Mr. President, one of the principal points of contention in conference involved the so-called line-of-business activities of the Federal Trade Commission. We spent considerable time on this particular item and several times it appeared that this might have to be taken back to the respective Houses in disagreement. This is an issue in which there was considerable difference of opinion between the House and Senate conferees and while I am certain that no one is completely satisfied with the result which was reached, I think we did achieve a compromise with which everyone can live quite comfortably during the initial year for this program.

To review this matter briefly, when the House considered this matter it provided that the Federal Trade Commission could solicit the line-of-business information from 250 corporations but under some rather strict guidelines on confidentiality which basically would restrict the access to any such information to those in the Federal Trade Commission who were actively working on the project and only for statistical purposes. When the Senate considered this chapter of the bill, it increased the number of firms from 250 to 500 and provided generally, that any information obtained could be utilized by the Federal Trade Commission in the discharge of any of its statutory functions and responsibilities. The Senate further provided that any such information could be made available to the Securities and Exchange Commission, the Department of Justice, the General Accounting Office, the Office of Management and Budget, and congressional committees. After considerable discussion the House conferees agreed to increase the number of corporations to 500 but adamantly insisted on retaining its confidentiality provisions.

We found that the Senate conferees were placed in an almost impossible situation in insisting on the Senate provisions. The House conferees pointed out that the subcommittee went into this matter in considerable detail during the course of its hearings and the FTC witnesses consistently maintained that they desired this line-of-business data solely for statistical purposes. They repeatedly advised the House subcommittee that they did not want nor did they need this type of data for the discharge of its other and various statutory responsibilities. The Commission witnesses maintained that same position in their appearance before the Senate Appropriation Subcommittee. And they even went so far as to suggest that if this data was to be used for any purpose other than statistical purposes or if it were to be published for any other reason, Congress should take some action to specifically

authorize and direct any such additional use of line-of-business data.

After a discussion of this in the Senate subcommittee in which Chairman Engman explained the Commission's position on secrecy, the chairman propounded the following question:

Is that your decision or was that imposed upon you by either OMB, GAO or some other authority?

Mr. Engman responded:

The recommendation for secrecy came from the FTC staff. The decision was not imposed by any external authority.

With this background and the FTC's justification of its line-of-business activities, we were forced to compromise to the extent indicated in the conference report and related documents and to be very frank, this compromise gives up most of which the Senate added during the course of our committee deliberations. But the FTC invited further congressional review which would govern the use of line-of-business data and the conference report leaves the door open for the use or dissemination of line-of-business data in any manner Congress sees fit. I am certain that the appropriate legislative committees will undertake a review of this matter immediately, and take whatever action is necessary.

Before leaving this issue, I would like to pay particular tribute to the senior Senator from Wisconsin (Mr. PROXMIRE) for his dedicated and persistent efforts to assist the Senate conferees in maintaining the Senate position. This one particular issue was before the subcommittee several hours and the Senator from Wisconsin was there all of that time. With his great knowledge and background in economic and antitrust matters, the burden of maintaining the Senate position fell primarily to him and I must say that he did a very admirable job. I know that he particularly is not satisfied with the outcome, but I personally want to thank him for his willingness to cooperate and compromise when it became only too obvious to all of us that such a compromise was in order if we were to reach any agreement whatsoever in the conference committee.

I would point out also, Mr. President, that we are dealing with an annual appropriation bill and the provisions of this bill will be applicable for fiscal year 1975 only. With the line-of-business program, we are entering into an area which is new, both to the Federal agencies involved and to industry, and I can assure all of my colleagues that we will watch and monitor this program very closely in the weeks and months immediately ahead to determine what changes and modifications might be necessary in order to reach the goal which we all seek. As a matter of fact, we have directed the Commission to submit an interim report to us so that we will have a complete report prior to the time we schedule our committee hearings for the 1976 budget year.

Mr. President, since this matter was considered on the floor of the Senate a week or so ago, we have had some inquiries as to why the bill which we are considering here today is almost $3 billion above the 1974 appropriations. Accordingly, therefore, I should like to take just a minute or two to point out some of the major increases for the benefit of all of my colleagues. The specific figures, of course, are set forth in detail in the comparative table which has been printed in the RECORD. The figures I shall discuss are only the major ones.

In title I, agricultural programs, we are over the 1974 appropriations by approximately $1.1 billion. Of this amount we are over the 1974 appropriation by $225,000,000 for the Public Law 480 program, more than $767 million for reimbursement to the Commodity Credit Corporation, approximately $15 million for the Agricultural Research Service, $95 million for the Animal and Plant Health Inspection Service, $15 million for the Extension Service, and $15 million for the Cooperative State Research Service. The major item here, of course, is the more than three-quarters of a billion dollars for reimbursement to the Commodity Credit Corporation. This is to reimburse the Corporation for losses suffered through June 30, 1973. So this figure in no way reflects the drastic reductions which have been made in the various price support and commodity programs. This reduced figure, of course, will be reflected in the fiscal 1976 budget.

For title II, we are over the 1974 appropriation by approximately $450 million. This consists primarily of reimbursement of losses to the Agricultural Credit Insurance Fund which in turn is represented by the forgiveness or write-off feature of emergency loans which were made to individuals who suffered losses as a result of certain natural disasters. The total appropriation for this reimbursement item is $485 million, which is more than $410 million above the 1974 appropriation. In addition to this one single item we added, over the 1974 appropriation, $7.5 million for rural development grants, and $7 million for rural community fire protection grants for which no 1974 appropriation was made and for which no budget estimate was submitted for fiscal 1975. We also had a new item in title II, reimbursement for losses to the Rural Development Insurance Fund or more than $17 million. This is a new item which was not included in the appropriation for fiscal 1974.

For title III, environmental programs, we are over the 1974 level by slightly more than $200 million. More than half of this, or $122 million, is in the Environmental Protection Agency and is represented by the newly created activities involving energy research and development for which there were no 1974 program or funds. The other major increases in title III are represented by a $65 million increase in the agricultural conservation program and $25 million for the forestry incentive program, for which there was no separate appropriation in 1974.

For title IV, the consumer programs, we are over the 1974 appropriation by more than $1.1 billion. Almost all of this amount is represented in the increased costs of the food stamp program. I would point out to my colleagues, however, that Congress itself mandated some substantial increase in the food stamp program based on cost-of-living figures. In requesting these additional funds the Department is simply fulfilling its mandate of congressional action and is forced to make increased payments under the food stamp program as economic conditions require. I would say here too, that we have not seen the end of this cost spiral in the food stamp program. If living costs continue to rise, the Department will have no alternative but to reestablish new payment criteria under the appropriate authorizing legislation and I will be very surprised if we do not have a substantial supplemental request for the food stamp program before the end of this fiscal year. As I indicated previously, also included in this total is the $100,000,000 which we added for the child nutrition program to reestablish the the solvency of the section 32 account.

And so, Mr. President, with that short summary of the bill, I submit the conference report to the Senate for its consideration. Before doing so, however, I want to commend all of the Senate conferees who stayed with us during a very full and trying day during our conference with the House. While we did not get all we wanted, I can say without equivocation in my years of experience on this committee, both as a member and as subcommittee chairman, there has never been more determination shown on the part of the Senate conferees to maintain the Senate position. But due to conditions of which we are all aware, and which have been discussed in detail, we felt compelled to give more than we would have liked.

Mr. President, I move for adoption of the conference report.

Mr. President, I want to say that the distinguished senior Senator from Wisconsin (Mr. PROXMIRE), who was one of the conferees on the measure and who performed yeoman service as we sought to achieve the prevailing position of the Senate differences with the House, has asked for a few moments to explain some of the consequences of the problems that we encountered.

Mr. PROXMIRE. I thank the distinguished Senator from Wyoming.

The PRESIDING OFFICER. The Senate is not in order.

The Senator from Wisconsin.

Mr. PROXMIRE. It is very painful to have to oppose the position, any position, taken by the Senator from Wyoming, especially after a conference report, when he has worked so hard—he is so extraordinarily competent in this area, he is so fair—he worked so hard to work out and develop a fair compromise, and he does indeed fight very hard for the Senate position, but there are two reasons why I am opposed to this conference report. No. 1, it is too much money.

Mr. President, today we face an escalating war with inflation. One of the battlegrounds on which this war will be fought is the Congress of the United States. For if we fail to cut, and cut sharply, the administration's budget requests we must plead guilty to the charge

of contributing in substantial degree to the raging inflationary fire that is slowly but surely burning up each American's take-home pay.

It is not enough for us to say, "Well, when the military appropriation comes out we will cut that, and maybe we will cut somewhere else, foreign aid or something like that."

Mr. President, there is no way it can add up to the kind of restraint on the budget that we require. As the President said, we could easily go to $310 billion or $312 billion this year instead of $305 billion, which is such a tremendous increase in the spending over last year.

This budget is a good example, this appropriation bill is a good example of an increase of something like 23 percent over last year, to the best of my knowledge.

That is why I am so distressed about the conference report on the Agriculture appropriations bill, which we take up today. Some weeks ago the Senate went on record in support of a $10 billion budget cut. Yet today's bill exceeds the administration's budget request by a whopping $138.5 million. The administration requested $13.433 billion and we are giving the White House a bill containing $13.571 billion. If we were to be true to our decision to advocate a $10 billion budget cut we would be slashing this budget by approximately $400 million, not increasing it by $138.5 million. In other words, the budget we have approved for the Department is over half a billion dollars above the goal we set for ourselves.

Now there are some programs that must be funded above last year's levels. Food stamp costs have gone up. We have a crying need for increasing our agricultural research funding—these expenditures form the backbone of farm productivity increases. But the administration's budget has more than enough leeway for such increases. It is $2.8 billion above last year's appropriations. We could cut $403 million from this budget proposal and still make substantial increases in a great number of programs.

There is one other area that I want to mention because I feel very strongly on this and I think the Senate did go on record with a position that would provide for some meaningful reporting by the large corporations. I am afraid that the House position which prevailed emphatically in this area is going to make the Senate position on line-of-business reporting meaningless.

The purpose of the FTC's line-of-business program is to collect data on profits, sales, capital, and a few specific costs for the major products of the Nation's largest corporations. This line-of-business information is essential for purposes of economic analysis, for antitrust enforcement, and for protection of consumer interests.

Because of the merger wave following World War II, and particularly the conglomerate merger movement of the 1960's, no one has accurate information on the financial performance of specific industries. The FTC's line-of-business information program is designed to provide such information. Obviously the impact of the program will be severely limited so long as use of it is restricted to the FTC's statistical operations.

Mr. President, the language in the conference report effectively bars the use of this data for economic analysis by other agencies of the Federal Government, and the workings of the committees of Congress because it does not permit us to have the information. It stays with the Federal Trade Commission. Congress cannot have it, the Antitrust Division of the Department of Justice cannot have it, the GAO cannot have it.

It also weakens the program by cutting out funds for 11 employees, including 7 accountants who were to do the basic nuts and bolts work on the survey data. The only point which the Senate retained was the increase in number of firms to be covered from 250 to 500. I am hopeful that the Federal Trade Commission can find a way to use this language to enforce antitrust laws. That was my emphatic intention in agreeing to the report language.

As a matter of fact, the position of the House was that it can be used for statistical data, but if it indicates that any firm is violating a law, they cannot be prosecuted. It is like the old saying, when the daughter asked if she could go out to swim. Her mother says, "Yes, my darling daughter; hang your clothes on a hickory limb, but don't go near the water."

Big business has fought the line-of-business information program for a number of years and in a variety of forums. Business representatives have resisted invitations to sit down with FTC officials and work out the details of the program, although the FTC has shown its willingness to make revisions to meet legitimate industry concerns. For the most part, big business has thrown up a wall of total and uncompromising opposition to line-of-business reporting.

I think that this attitude is very shortsighted. In fact, I think that the line-of-business program is probusiness, not antibusiness.

Collection of information on profits by product line is the heart of the program. Adequate information on profits is vital to the effective operation of a free enterprise economy. High profits in a particular line of business show where existing companies can profitably expand their capacity, and where new competitors should be encouraged to enter. Accurate information on profits by line of business—information which is absolutely essential, is not available at the present time. It is essential for free market competition and industrial expansion into areas of greatest potential growth. Big business should be demanding this program, not fighting it tooth and nail.

As for the small businessman, he already has to release the detailed product line information required by this program. The fact that his conglomerate competitor does not have to do this makes it even harder for him to compete than it would otherwise be. We should at least put big business on the same footing as small business.

The investment community has long sought more accurate information on profits by line of business. The decisions, of investors, large and small, depend on reliable profit-data. Every member of the Securities and Exchange Commission is for this. To the extent that such data is not available, investment decisions are ill-informed, and this is contrary to the interests of a healthy economy.

And while I am speaking of the economy, let me also state that obtaining line-of-business information is vital to the struggle against inflation. Concentrated industries concealing their profits can raise prices on their products without restraint, and thus add fuel to the fire of inflation.

For all these reasons, I think that the FTC's line-of-business information program should go through unhindered by restrictive legislation. It is absurd to bar the FTC from passing this information on to other agencies under appropriate procedures. The Securities and Exchange Commission has a direct interest in obtaining this information, in view of its responsibility for regulating the investment community. The Antitrust Division of the Justice Department obviously needs this information, for the same reasons as the FTC. And the ultimate absurdity is for Congress to vote to deny this information to its own committees, which carry out the legislative duties which we all were elected to perform.

I deplore the efforts of big business to block or gut the FTC's line-of-business program. I deplore still more the action taken by the Appropriations Committees of Congress to aid and abet these efforts.

I do not feel that this action represents the will of Congress as a whole. Congress in the Alaska Pipeline Act gave the FTC the authority to issue the line-of-business report form on its own initiative, subject only to the scrutiny of GAO rather than the obstruction of OMB.

The Senate just last week voted resoundingly in opposition to an amendment by Senator HRUSKA to gut the substance of the program, defeating that amendment by a vote of 36 yeas to 51 nays. I regret strongly that the Appropriations Committee, of which I am a member, has decided to go against the intent of Congress as indicated in these previous votes.

In conclusion, I strongly support the Federal Trade Commission's line-of-business program—a program which is vital to the health and growth of our economy. I opposed both in committee and on the floor, the pressure put on the Appropriations Committees to weaken and handicap that program. The language in the conference report is contrary to the interests of the American people and inimical to the workings of our free enterprise economy.

Mr. President, I yield the floor.

Mr. HARRY F. BYRD, JR. Mr. President, will the Senator from Wyoming yield?

Mr. McGEE. I yield to the Senator from Virginia.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. HARRY F. BYRD, JR. Mr. Presi-

dent, this appropriation bill calls for spending $3 billion more than was spent last year.

The PRESIDING OFFICER. The Senator will suspend.

The Senators will please take their conversation into the cloakroom so that the Senator from Virginia may be heard.

Mr. HARRY F. BYRD, JR. Mr. President, this represents an increase of 28.5 percent in spending over what was spent this past year.

How is the Congress going to get spending under control when the first major appropriation bill to come before the Senate provides for an increase of 28.5 percent? The appropriation is for $13.5 billion as compared to $10.5 billion for last year.

I think this underlines and dramatizes what the distinguished majority leader said on the floor last week, that neither the Congress nor the administration is doing anything toward getting inflation under control. I shall vote against the conference report.

Mr. HUMPHREY. Will the Senator yield?

Mr. McGEE. I am happy to yield to the Senator from Minnesota.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. HUMPHREY. Mr. President, I have taken the liberty today of placing in the RECORD my response to President Nixon's so-called economic message, which was devoid of any sound economic principle or any pattern of sound administration of economic policy. I hope that my colleagues will see fit at least to give it cursory attention.

The economy has been getting just that amount of attention. Whether one is a financier, an investment banker, a retail merchant, a wholesaler, or a worker in the mines or the factories, or a farmer on the land, he will find today that this country has no real economic policy except to rely upon the forces of the marketplace, which all too often is the law of the jungle when it comes to protecting the public interest.

Mr. President, there is one way above all others to combat inflation, and that is production. But we now see that production is down, the gross national product is down, and the wage earner's paycheck is down in terms of its purchasing power.

The American farmer today finds the cost of production skyrocketing while his price structure is unstable and fluctuating to a point where he does not know what tomorrow will bring.

I gather, as the distinguished Senator from Wyoming has pointed out, that this recommendation on appropriations basically falls within the budget pattern because the administration asks for an additional amount of money in order to replenish section 32 funds.

Mr. McGEE. May I say to my colleague from Minnesota that that is correct. Actually, it exceeds the budget total by approximately $30 million out of $13.5 billion. So that is honing a pretty fine line.

Mr. HUMPHREY. Since the time the President's budget was presented to this Congress, inflation has acted like a ravaging disease upon this economy. Far more significant than the pusillanimous percentage increase which is in this bill.

Mr. McGEE. I hope that was a constructive increase, whatever the Senator said.

Mr. HUMPHREY. Pusillanimous.

Mr. McGEE. I said I hope that was a constructive increase.

Mr. HUMPHREY. It was an "expletive deleted" kind of increase.

Mr. President, what this body needs is righteous indignation about what is happening to interest rates. These incredibly high interest rates are inflationary. Built-in costs tear at the very heart of the economic system of this country, while bankers have a field day with profits. Oil companies have exorbitant profits that are unbelievable. We sit around here listening to a message that tells we have to watch these people programs so that we do not help people too much.

Mr. President, I think we have our eye on the wrong thing. The people programs—health, education, and welfare, agriculture—are not going to bankrupt this country. I will tell you what is going to cost us: Putting our money into weapons systems that are unnecessary; buying more nuclear weapons that are unnecessary; letting bankers set interest rates, a power which they ought never to have; and permitting commodity speculation in this country and in the world to reap its ravages on the American economy.

So we sit here and argue about $38 million which would not even take care of a fraction of the inflation increase since that budget was presented last February.

I commend the Senator from Wyoming for doing a remarkable job.

I have just come back from the Midwest. I am going back out there Thursday to visit with the farm people of my State. They are not getting rich. I will tell you who is getting rich: The people who are loaning them money; the people who are getting exorbitant prices for fertilizer; the steel industry, which has increased the cost of a fencepost by 200 percent; the oil industry with exorbitant profits—they are the ones getting rich.

We sit around here arguing about some little two-bit program when in fact the economics dinosaurs are moving over the land, chewing up and preying on the economy.

Yes, I am angry about it, Mr. President. I met with 30 farmer people yesterday in my office in Minneapolis who came to tell me what was happening to them. They need some guidance and some help from this Government, and they are not getting it.

I would hope that the Senate of the United States, when it gets around to the point where we talk about monetary and fiscal policy, will come up with something more than what we are going to do about the Federal budget.

I am for trimming the Federal budget. We will trim it—in foreign aid; we will trim it in defense expenditures and more. But you are not going to trim it out of health, education, and welfare, which are needed for the American people, and you are not going to take it out of food if I have anything to say about it. These are things that are needed.

What this country needs is productivity. What this country needs is some sense of conscience to prevent the exploitation of the people of this land by financial institutions, monopolies, oil companies, speculators on the commodity market and those who have no care and no interest in what happens to the family income.

Mr. BAYH. Mr. President——

Mr. McGEE. Mr. President, I agreed to receive questions from the distinguished Senator from Indiana on a matter that is of interest to him.

Mr. BAYH. Mr. President, I listened with great understanding to the remarks of our distinguished colleague from Minnesota. Since he emphasized the need for increased production and increased efficiency per unit, I believe it is an appropriate time, perhaps, to address a question to our distinguished subcommittee chairman relative to one of the items which is an additional amount in this budget.

Mr. PROXMIRE. Will the Senator yield for a minute before he asks a questions

Mr. President, I would like to ask for the yeas and nays on passage of this conference report.

The PRESIDING OFFICER (Mr. NUNN). Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BAYH. Mr. President, one of the additional items that the Senator from Wyoming was kind enough to accept and the Senate accepted, was an additional $300,000 for soybean research. We kept $250,000 of that in the conference, I understand.

Look at all the crop increases. There has been a smaller percentage of yield in soybean production than anything else. Yet that is the greatest demand. We hope we can spend this money so we do increase production and we do help the farmer make more money by increasing production and getting the cost down to the consumer. I want to salute the Senator for that, and for keeping that much in the budget.

Mr. McGEE. I would add we may get double mileage—even though that sum was reduced in conference—because the illustration that was given for the use of the funds was Purdue University. Because of their superb research facilities we might get twice the value for the amount of money that was allowed.

Mr. BAYH. I think it would be at least twice the value if it were spent at Purdue University. I am glad the Senator from Wyoming recognizes that .

Mr. HUMPHREY. If the Senator will yield, we have done some splendid research at the University of Minnesota. We have been able to put soybean production 175 miles further north in our State than it was 5 years ago because of that research.

Mr. BAYH. I am glad that Minnesota is following Purdue's leadership in this, and we hope they will continue to do so.

Mr. McGEE. This is known as the "Big Ten" of the soybean industry.

Mr. BAYH. I would like to refer to the bottom of page 9. I assume that that point was also considered in the conference and there is no need to go further into it.

Mr. McGEE. That is correct.

I am glad to yield to the Senator from Oklahoma. He is the one genuine farmer we have on the committee.

Mr. BELLMON. I appreciate the comment of the gentleman.

I would like to call the chairman's attention to amendment 7, the Cooperative State Research Service. I notice this is an increase over the amount of money appropriated in previous years. The question I wanted to ask the chairman is whether or not he anticipates that the States will reduce their contributions toward Cooperative State Research Service by some similar amount, or is it intended that this fund be used to increase the amount of research accomplished?

Mr. McGEE. We agree wholeheartedly with the committee's report in the House. It bears out the point the Senator is making.

Mr. BELLMON. That these funds will be used to increase the amount of research carried out?

Mr. McGEE. That is correct.

Mr. CHILES. Mr. President——

The PRESIDING OFFICER. The Senator from Florida.

Mr. CHILES. Mr. President, I voted against this bill when it came before the Senate, and I intend to vote against the conference committee report also, while having a great interest in many of the things in this bill, and agriculture being tremendously important in my State. It is probably the major revenue source for the State of Florida. I recognize the importance of it. It is very important to all of our farmers and cattlemen who are in dire circumstances now. I have a feeling that they are in dire circumstances—and they recognize that they are in dire circumstances—primarily because of the tremendous inflation that we have going on in this country. It is going to continue to go on as long as we in the Congress continue to add, add, every year.

That is what we are doing again in this bill, and we are doing it in every appropriation bill that is coming before us.

Every time we start talking about let us cut one, then we see a constituency stand up on this floor. I have been part of that, with many of them. They say, "Wait a minute." This is something that is of interest to our people. This is of interest to my farmers. This is of interest to my agriculture.

Everybody here has a constituency, but nobody recognizes the whole. No one speaks for the guy who is a farmer but is also a taxpayer and is also trying to live. We are running the prices up, and have been doing it for 7 straight years, with a deficit every year. We are doing it again this time, when we have worse problems in this country than anybody can remember.

Now we are continuing to run it the same way—a 23-percent increase, a 29-percent increase. Whatever it is, you name it: In every bill we are voting out of the Appropriations Committee, in every bill we are taking up on the floor of the Senate, it is more than last year. It is more than the estimates. It is just more, more, more.

Everybody says, "Eliminate. I want to cut the military." Someone else says, "I want to cut welfare payments," or something else. Nobody has been willing to date to say that we are going to do something across the board, that we are going to do something to bring it down.

How long can we continue to stand up for our little constituency, for our interest, and not think that somebody is going to stand up for every other interest?

We are continuing to do the same thing and go the same way we have been going. Sooner or later, we will have to face up to the fact, or the people are going to face up to it for us. We are continuing to be irresponsible. We are continuing not to live within our means.

We have to start on some of our favorite projects. The way we are to help the farmer is to help with respect to inflation. The way I am going to help the cattleman and the farmer in Florida is to see that he can buy his feed at a legitimate price and can sell his product at a legitimate price and make a living. Pumping more money into this bill and saying we are going to do more for agriculture, and pumping money into every other bill, as we have been doing, year after year, is putting the gun to the head of every one of us and to our people.

Only on the day that we are willing to look across and determine that we are willing to cut some of our favorite projects and the favorite projects of some of our constituents, to bring some sanity back to the economy of this country, are we going to be able to do something about it.

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

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

Mr. McGEE. I yield to the Senator from Kansas.

Mr. DOLE. I wish to commend the members of the conference committee for they have done a good job. I share the view, however, just expressed by the Senator from Florida.

Nothing in my State is more important than agriculture. I know of nothing more painful politically than voting against an Agriculture appropriation bill.

But if we are serious about inflation and about the impact it is having on farmers, consumers, and everyone else in America, we must stand up and say "No," however painful. We just cannot have it both ways. While I commend those on the Appropriations Committee for their efforts to hold down spending requests, I suggest they should have done more.

This bill appropriates almost $3 billion more than last year's Agriculture appropriations bill. Actually, nearly two-thirds of that increase is accounted for by expansion of the so-called consumer programs and is not going for strictly agricultural programs at all.

But the essential point here is that we are ignoring an opportunity to make inroads against the inflation that affects us all, consumer, farmer, everyone. The President wishes to cut the budget by $5 billion. Congress says it wants to cut the budget by at least $5 billion. Some Members say more. But here, when we have an opportunity to demonstrate that we mean what we say, we ignore it, and propose instead to pass a bill that exceeds the budget.

This year, with this budget, we have to start somewhere if we are really serious about doing something to combat inflation. This is an Agriculture appropriations bill, and it is not the easiest place for the junior Senator from Kansas to start; but, nonetheless, I propose to start here.

The time has come to express ourselves, not faulting the committee nor attempting to justify increased Federal spending.

Mr. McGEE. Mr. President, I would say, in behalf of the question that has been discussed here by the Senator from Kansas and the Senator from Florida, that they should know what we disallowed. We ran into billions of dollars on which we said "no." No and no and no again. There were very meritorious projects. They were very understandable requests.

Our target was to try to work in some kind of cooperation with the submission of the project, with the commitments of the budget requests that the chairman of the full committee arrived at through his leadership, so that we could stay under those.

In an effort to do that, we also had to deal with the House and with the difference in judgment over specific areas within the bill. As the Members of this body know very well, that is where some of the exceptions occur. It is the difference in judgment as to which is more important than something else in the cost factor.

Naturally, the things from my areas are more important than the things from yours. That is where the leaks sometimes occur. But in spite of that, in $13.5 billion, we went over the President's budget by $38 million. It was not easy to hold it that way, because the requests exceeded all of this, as I said, by several billion dollars.

We tried to be as judicious and as equitable as we could and as responsible as the circumstances would permit us to be.

We think this is close to the mark and reflects the kind of judgment that a group of mortals was compelled to make and then to strive to live with the best we can.

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

Mr. McGEE. I yield.

Mr. AIKEN. I realize that we have this series of appropriations for this year; but hasn't Congress recently established a Budget Committee, with about 36 Members from the House and 16 Members from the Senate, that will have the authority to tell us where to cut back on the appropriations which we have already made, after this year?

Mr. McGEE. Yes; the decision has been made by both Houses of Congress, and they are prepared to proceed.

Mr. AIKEN. Therefore, Congress will make its appropriation as usual and then rely upon the Budget Committee to cut back each program as they think it ought to be cut back.

Mr. McGEE. I do not know how the mechanism is going to work out. I would hope that they would decide what the ceiling is going to be in general, so that we could address ourselves to the judgment as to which items are more important than others.

But I do say—and I think the Senator has made an important point this afternoon—that Senators should not come to see me next year about getting their projects, because the ones who have been making the speeches here are the ones who beat us over the head because they needed $6, $8, or $10 million more for their projects, and we tried to examine the equity of it.

The place to start, if Senators really mean this and if this is not rhetoric for the home folks or for the CONGRESSIONAL RECORD, is to cut back their project requests, and I can assure them that we will live up to it.

Mr. AIKEN. I commend both Houses of Congress and the conferees for doing what I consider to be an excellent job in this appropriation bill. I believe that the new Budget Committee will not have any authority to upset it, will they—not this year?

Mr. McGEE. Not this year; that is correct. Once this measure is passed by this body, as I assume it will be this afternoon, it will be ready for the President's signature.

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

Mr. McGEE. I yield.

Mr. BARTLETT. Mr. President, I should like to join in the views of the Senator from Florida and the Senator from Kansas.

I compliment the Senator from Wyoming on his hard efforts to reduce the spending in this bill. I think the Senator from Wyoming knows that nothing is more important to the State of Oklahoma than agriculture. I support that, and I support it strongly.

All I am hearing from Oklahoma—and perhaps this is true throughout the country—is that there seems to be no plan either from the executive branch of Government or from Congress on controlling spending this year.

To me, a vote for this particular bill, with the amount in it, is a vote for that "no plan" concept. A vote against it, on the other hand, is to take another look at it and reduce the amount of this conference report so that it will come in line with a reduced budget, lower than that which the President presented.

There have been a number of actions by this body in support for the amendment of the Senator from Wisconsin to set a $295 billion limit by the President. Letters have been written to the President asking for a balanced budget to be submitted to this body. A resolution has been passed by this body asking for a domestic summit conference, showing a real concern by Congress about the economy, about inflation, about spending.

So it is with real sadness that I plan to oppose this bill, in the interests of economic stability. But I do not know how else to express this. I would feel as though my other votes would have been made tongue in cheek, if I supported this bill, much as I would like to. Certainly, it has many, many good provisions.

But I think the Senator from Wyoming realizes that we have not budgeted in the Congress. We have created the various pieces of pie and looked around for a pie pan big enough. I realize we have corrected that with new budget law which, unfortunately, cannot take effect yet. So every year our only opportunity to make a vote which is consistent with the feeling in our State, I believe, and around the country, that there is no plan, there is no action, is to vote against this important piece of legislation.

Mr. NUNN. Will the Senator yield?

Mr. McGEE. I will be glad to yield to the Senator.

Mr. NUNN. Mr. President, I would like to commend the Senator from Wyoming for his hard work. I know the subcommittee worked very hard and that this is a very important bill to a large number of people.

However, I do think I would have to join those of my colleagues from Florida, Wisconsin, Virginia, Oklahoma, and Kansas who have expressed serious reservations about what we are about to do today.

As I understand it, this is the first appropriation bill this body will pass this year.

I was here on the floor when the Senator from Wisconsin (Mr. PROXMIRE), about 6 weeks ago, brought up a ceiling on our spending of $295 billion.

I believe that there were 73 Senators who joined in that affirmative vote saying, in effect, we want to do something about overall expenditures. But on this, the first appropriation bill of the year, we are about to increase last year's budget by 29 percent, while, in the background, there remains a general resolution saying we want to hold the overall level of expenditures to $295 billion.

I am reminded, Mr. President, of a story I heard about Will Rogers. During the peak of World War I when Will was asked for a solution to the German submarine problem. He replied that the only thing we had to do was drain the Atlantic Ocean. Of course, the next question was how do we drain the Atlantic Ocean? Rogers said:

> That is a detail and I am a generalist; that's someone else's problem.

And today's problem is ours. In the Senate we must attend to the details and this is a detail matter today.

We have expressed a general feeling that we want to do something about the runaway Federal budget, but when we get down to the details it is awfully difficult.

I come from an agricultural State. I cannot think of any State that this bill means more to than my own. Yet I could not look farmers in the eye and say I have done anything for them if, at the same time, I vote for an inflationary 9-percent increase over last year's agricultural bill.

In my opinion, that is not the way to take care of the details. Maybe it is the way politically, but certainly not the way if we care about the economy of this country.

Right now we have a chance to stand up—at the beginning of the appropriation process—and vote no when we have bills that are going to exceed last year's budget by more than normal inflation.

We can talk for a long time about whose fault overspending is, whether it is the President of the United States or the Congress. But when we look at the Joint Economic Committee reports that Senator PROXMIRE and his committee put out, it is apparent what happens. We cut some appropriation bills but then come right back with back-door spending.

When we examine the last 5 years of the President's budget, he got back total spending measures from Congress which were about what he requested when you consider total appropriations plus back-door spending measures.

So I do not think we can stand here and say we are fighting inflation when we cut appropriation bills knowing perfectly well we add it back somewhere else.

Nor do I think the President and his administration, can point at Congress and say it is totally Congress fault when he knows full well he has gotten back in total spending measures about what he advocated.

It is the fault of the administration, and it is the fault of Congress. My constituents in Georgia are beginning to realize this double blame. I do not think, Mr. President, that we are going to do anything for the American farmer while we put money in one pocket as we take it out of the other pocket through inflation.

I do not believe we are doing anything for the military leaders in the Pentagon if we continue this type of inflationary increases. Continued at this rate, they are not going to have the economic base needed in future years for our Nation's national security.

I do not believe we are doing anything for the administrators at HEW, the educators, or the people on welfare, if we keep expanding this runaway inflationary cycle.

At some point the bubble will burst and there will not be the economic base we need for appropriation measures for any of the areas that benefit from Federal spending.

I think we need to take the tack now—even while we wait for the Budget Reform Act to take effect—that we will cut every appropriation bill that exceeds last year's budget plus the rate of inflation. This is the only way we can stay within the $295 billion ceiling. And that is exactly what we said we would try to do when we passed the ceiling limitation. That is what I mean by attention to detail.

We have passed the point when liberals can go back home and say, "We voted to decrease the space budget; we voted

to decrease the defense budget, therefore we are fiscally responsible." At the same time the conservatives are going back home and saying, "We voted to decrease the HEW budget, we voted against food stamps, therefore, we are fiscally responsible." We all know perfectly well there are enough votes on this floor to pass every spending measure—be it DOD, HEW or back-door spending. When it comes to the final analysis, what we are doing is playing a colossal joke on the American people. And now I believe they realize this.

While Will Rogers could express his sentiment about being a generalist during World War I, today we must focus on details. We face the real question of whether we are willing to apply in actuality the kind of discipline that we verbally advocate.

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

Mr. NUNN. I am happy to yield.

Mr. HUMPHREY. Mr. President, I want to say that I fully appreciate the sincerity of the Senator's point of view, which is characteristic of the distinguished Senator from Georgia. But I would hope the Senator would keep in mind that one of the largest increases in the Federal budget is the interest on the public debt which is due to the unscrupulous, scandalous, incredible high interest rates imposed upon the American people.

This $38 million in this budget for agriculture is really just a drop in the bucket. A drop in the ocean, may I say, as compared to the increase in the cost of handling the public debt due to high interest rates, and we do not see any effort in this body to really put the plug in where the leak really is.

I want to say that I am willing to vote for expenditure ceilings, if I can get the Senators to vote with me. This interest rate of 15, 16, or 20 percent, which is what the average fellow is paying, is a crime. Yet we sit here and argue about these minor things when there is literally a ravaging disease affecting this country called "rent on money" which they call interest.

Mr. NUNN. Might I respond to the Senator from Minnesota by saying I do not disagree with his analysis of one of our serious problems, the high interest rates. I do believe, however, in looking at the overall economy, that all these factors contribute to a vicious circle. When there is inflation, the more investors are going to insist on their money and thus the higher interest rates will be.

We have to start somewhere. I would consider any proposal the Senator has because he has put his finger on the inflationary process. Still I believe it is a circular process and we have to start at some point on the circle.

We can argue for a long time where the proper point is, but I know this one detail—today we are at one point on the circle. It may be a little point—one little atom on the pinhead—but it is still a point on that vicious circle. I, for one, am going to start here even though it may not be the most politically sensible thing to do.

Mr. PROXMIRE. Mr. President, will the Senator from Georgia yield?

Mr. NUNN. I yield.

Mr. PROXMIRE. First, I commend the Senator from Georgia on his speech.

The PRESIDING OFFICER. The Senate will be in order.

Mr. MANSFIELD. Mr. President, if the Senator will yield, in view of the lateness of the hour, and not because of the importance of the subject, I wonder if the Senator from Georgia and the Senator from Wisconsin—I know of no others who will speak on the agriculture conference report tonight—would agree to a vote on it at the hour of 5:30 p.m.

Mr. PROXMIRE. Oh, yes; I think we can vote on it at 5:20.

Mr. MANSFIELD. I ask unanimous consent that the Senate vote on the conference report not later than 5:30 p.m.

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

Mr. PROXMIRE. Mr. President, the reason the interest on the national debt is as high as it is, the reason that the cost of money is so high, is because of a series of deficits. Why do we have those deficits? Because we have spent more than we have taken in. Because of our enormous spending.

This year, we are spending far more than every before—the biggest increase in the peacetime history of this country: $35 billion more. We are going to have a deficit of some $10 billion if we simply stay within the budget, unless we manage to cut below it.

That will add to the national debt. That will add to the interest costs in the future.

One other point: To the extent that the Federal Government is a net borrower—and this increases our borrowing by $10 billion, because we are going in deficit—it means that to that extent we are bringing up the cost of money. That is what borrowing does; it drives up the cost of money. So while it is true that this measure is relatively modest, when you add up all the appropriations bills, they add up to a whale of a lot of money: $10 billion more borrowing. The interest rates are going to be higher, and this is the reason why the service charges on the national debt are as high as they are.

Mr. NUNN. I agree with the Senator completely, and that is a part of that circular process I talked about. The more we have deficits, the harder it is to get money for private enterprise, because the more the Government is in there competing for money. That is a part of the vicious cycle.

I think the Senator has made an excellent point, and I commend the Senator for his leadership on the Joint Economic Committee. I believe the Senator from Wisconsin is very consistent in his position and makes an awful lot of sense.

Mr. HUMPHREY. Mr. President, will the Senator from Wisconsin yield at this point?

Mr. PROXMIRE. I am happy to yield, if I have the floor.

Mr. HUMPHREY. I want to say to the Senator from Wisconsin that I remember when we had $20 billion deficits, when the interest rates were not this high. We had deficits in World War II of $40 billion or $50 billion, and the interest rate was 3 percent. I do not buy the argument that it is the budget deficits that put the interest rates up so high. It is staggering. The money goes to the highest bidder, and we know that the highest bidder is not the mamma-and-papa grocery store, it is the corporations, the huge conglomerates. They are the highest bidders. That is what is building up the interest rates. And, I might add, a lot of it is going overseas.

Mr. PROXMIRE. The Senator from Georgia had the answer in part. When we get this $10 billion or $12 billion inflation, obviously, what the saver is going to do is do his best to assure that when he gets his money back, he will get back in real terms as much as he loaned.

What is the point in making a loan at 8 percent, if inflation is 10 percent? At the end of the year you get $108 back, and that $108 is worth less than the $100 you loaned out.

That is why, as the Senator from Georgia says, we have to stop this process somewhere; it is circular.

The one place where we have some control and our actions can be effective is in cutting spending. The Senator from Louisiana offered a very constructive proposal, which I think has a lot of merit: I certainly want to study it and hear more about it, and that is to put a tax on interest over 10 percent, as I understand it. That might be very effective. I would like to see that; but I think that until we get to that point, and we all know we are some way from consummating that, the one clear, consistent action everyone would agree we should take is to hold down spending.

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

Mr. PROXMIRE. Let me say, before I yield to the Senator from Louisiana, that I have just polled the people of my State. The returns are coming in right now. We have received 40,000 returns, and they have voted 10 to 1, 89 percent to 9 percent, in favor of cutting the Federal budget by $10 billion. It is overwhelming.

The only way we can do that is to make cuts, not simply in the military area and space, which the Senator from Minnesota and I both feel should be cut, but we have to make sure that we do not have increases in other areas also.

I yield to the Senator from Louisiana.

Mr. LONG. Mr. President, we have had inflationary pressures before, and we have not had any 15 percent interest charges before. Under previous administrations, it was recognized here, as it has been recognized all over the world, what every other nation recognizes, that with worldwide inflation going on, if you do not place some limit on the outflow of your own capital all over the whole wide world, you will not be able to control your economic situation within your own country. The Senator is well versed in economics, and he is well aware of the theory of the free flow of capital: That it will flow out where it can make the most return.

For years we had an interest equalization tax, to keep the money here, rather

than have every homeowner in America have to bid against everyone in the whole wide world for money to buy a home. As the Senator knows, that tax has been permitted to expire, with the administration's recommendation.

It is all right with me to reduce Government spending. I am in favor of reducing it in certain areas. But I would point out that the Government deficit will be only about $10 billion on a $250 billion increase which will occur this year and which has occurred in the last year, in public and private credit. The biggest item will be a $150 billion increase in corporate credit.

Some things must be done that are not being done, but one thing I would suggest is this thing of rationing credit on the basis that those who can afford to pay the most for the credit are going to get it, and those who cannot afford to pay these extortionate rates cannot get it, especially homeowners.

That is why I have suggested that we start resisting these interest rates by putting a 100-percent tax on any interest income, a personal tax, over 10 percent. I assume we would have to exempt small loan companies to the extent that they have been lending money at higher interest rates in previous years. But I would think that if we tax away all interest income over 10 percent, in that way there would be no point of people trying to collect more interest than that on loans.

Mr. PROXMIRE. Mr. President, while I am in sympathy with the position of the Senator from Louisiana, I want to make clear that this afternoon we can indicate our very strong opposition to increasing spending. Although we all appreciate the work the Senator from Wyoming has done on this measure, and I hope to work with him on it in the future, as I say, the one clear action we can take now, whatever we do in the future on interest rates, is to indicate what we feel about inflation by doing what we can to hold down expenditures here and now.

Mr. McGEE. Mr. President, with the vote on the conference report about to occur in 2 minutes, I must say I appreciate all the comments of our colleagues. I think the net result of them tends to reflect on the committee, who felt compelled to honor the requests of their colleagues. I find, in going through the requests we have had, nothing like the withdrawal of a request, or cutting down of one, and I think this RECORD ought to show that.

If we really mean it, we have just counted up, and if some of those who have been addressing us here would withdraw their requests, we can go far below the President's budget, if they are willing to say, "I will forgo my State's appropriations in this field."

I think that exposes the kind of stuff we have been indulging in here. The committee has worked hard to integrate this measure with the House bill, with the President's budget request, and with the ceilings imposed by the leadership in the Appropriations Committee.

I say to Senators, the time to put your action where your mouth is, is when you are asking for the project. I hope that next year—and the record will be available—we will take those things into account.

We tried to do what was fair for all of the States' needs, taking into account the diverse variety of needs scattered around the Nation. We thought we came close.

Mr. BELLMON. Mr. President, I would like to express my appreciation of the efforts of the chairman of the Senate Committee on Appropriations in the consideration of H.R. 15472, the Agriculture-Environmental and Consumer Protection appropriation bill for fiscal year 1975.

I would also like to thank the chairman and the ranking minority member of the Subcommittee on Agriculture-Environmental and Consumer Protection for the many kind courtesies they have extended me.

Mr. President, I support this measure because it provides necessary support for the Department of Agriculture, the Environmental Protection Agency, and other independent agencies.

The total new obligational authority appropriated in this bill is $13.5 billion. The chairman of the subcommittee has already given a detailed explanation of the individual items in this bill. I would like to limit my remarks to one special concern of mine, that is the appropriation for the Cooperative State Research Service, and more particularly, the $6.4 million increase for additional support to State agricultural research stations.

It has come to my attention that some States have reduced or plan to reduce their financial support to this necessary research program in anticipation of increased Federal assistance.

As noted in the House report on this bill, such action by the States is clearly not the intent of Congress.

American agriculture needs greater and expanded commitment for research. We are providing additional funds so that this need can be met, and not to relieve the States of their responsibility to their farmers.

This bill addresses the needs of American agriculture, the demand for a better environment and greater consumer protection. It is for this reason I support this measure.

Mr. HOLLINGS. I took part in the formulation of this agricultural appropriation bill. However, if we are really going to cut back, if we are really going to stop inflation, we must begin with our own favorites. This bill is $3 billion over last year—$100 million over the budget estimate. As a new member of the Budget Committee, I must first begin by disciplining myself. I, therefore, vote against the conference report.

Mr. HRUSKA. Mr. President, I would like to commend the distinguished Senator from the State of Wyoming, chairman of the Subcommittee on Agriculture-Environmental and Consumer Protection of the Senate Appropriations Committee for his efforts on this vital appropriations bill.

I would also like to thank the Senator from Hawaii (Mr. FONG) who worked so hard in committee and on the Senate floor to bring this measure to final passage. He is necessarily absent and hence I undertake some explanatory remarks on this report.

Mr. President, H.R. 15472, the agriculture-environmental and consumer protection appropriations bill for fiscal year 1975, does not meet all the needs. It does, however, provide necessary support of Federal programs to address our most critical needs.

Mr. President, our country is faced with high inflation which is affecting everyone, including both consumers and farmers.

There are two approaches that Government has to attack this problem—monetary and fiscal policy. Monetary policy is primarily within the jurisdiction of the executive branch but Congress, through the appropriations process, has and must exercise its responsibility in determining realistic and effective fiscal restraints.

The bill we have before us today reflects those restraints. As reported by the conference committee, H.R. 15472 provides $13.6 billion in new budget authority, a $100 million reduction from the Senate bill we passed last week.

While this bill still exceeds the 1975 budget estimates by about $138 million, this amount is not out of line in unacceptable degree when compared to congressional action last year when we passed a bill which exceeded the budget estimate by $400 million.

Aggregate fiscal policy aside, let us examine the individual appropriations in this bill.

In the area of agricultural research, the bill retains significant increases over last year's levels. The Agricultural Research Service has been increased by $30 million, the Cooperative State Research Service and the Extension Service by $15 million, each being over fiscal year 1974 levels. While these appropriations are not as large as many would like, balanced against the threat of increased and continued inflation, I feel they are reasonable and realistic.

In rural development, I am gratified that the conferees sustained increases in the Senate bill for the rural electrification and telephone loan programs as well as the farm ownership loan program. The bill also appropriates $17.5 million for rural development grants and $6 million for mutual and self-help housing loans.

Mr. President, I was especially concerned for environmental programs. It has been feared that our desire for a clean environment might dissipate in the face of economic hardship.

I am very pleased that, as reflected in the bill, this is not the case. The conferees retained $20.5 million of the $49 million increase provided by the Senate for pollution abatement and control activities in the Environmental Protection Agency.

The conference committee also agreed to a $5 million appropriation to demonstrate the commercial application of municipal, agricultural, and other wastes as energy sources.

Mr. President, that brings me to the last point, consumer programs. The bill appropriates $50,000 more than what was originally allowed by the House for the

Office of Consumer Affairs. Similarly, partial restorations were allowed for the Consumer Product Safety Commission and the Federal Trade Commission.

A very difficult problem dealing with procedural and confidentiality provisions for the Federal Trade Commission line of business report proposal was also resolved by the conferees.

I am hopeful that the language contained in this measure will provide for adequate security of this data and also insure that the FTC's investigatory power in this area will proceed in a careful prudent, and judicious manner.

Mr. President, I believe that on balance the conferees have done an excellent job in striking a good compromise between fiscal constraints and providing adequate program support for the 1975 fiscal year. I commend their diligent efforts and urge passage of this bill.

Mr. GRIFFIN. Mr. President, I ask unanimous consent to proceed for 2 minutes, notwithstanding the unanimous-consent request, to ask the majority leader for information concerning the program for the rest of the day and the rest of the week, if the majority leader is in a position to respond.

Mr. MANSFIELD. Yes, indeed.

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

ORDER OF BUSINESS ON S. 1033

Mr. MANSFIELD. First, Mr. President, I ask unanimous consent that on the Legislative Calender Order No. 187, S. 1033, a bill to amend the Export Administration Act of 1969, be taken from general orders and placed under subjects on the table.

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

Mr. MANSFIELD. Secondly, because of the lateness of the hour and the long day, we will not return to the unfinished business, S. 3792, but we will return to that after the Senate disposes of H.R. 15544, an act making appropriations for the Treasury Department, the U.S. Postal Service, the Executive Office of the President, and so forth.

ORDER FOR ADJOURNMENT TO 10 A.M.

Mr. MANSFIELD. At this time, Mr. President, I ask unanimous consent that when the Senate adjourns tonight it stand in adjournment until the hour of 10 o'clock tomorrow morning.

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

PROGRAM

Mr. MANSFIELD. On tomorrow, tomorrow, after the brief morning hour, and other incidental factors, the Senate will turn to the consideration of Calendar No. 988, H.R. 15544; and when that appropriation is out of the way we will then turn to the consideration of S. 3792, which is the unfinished business.

Mr. President, on that measure, I ask unanimous consent that there be a time limitation of one-half hour on amendments, 15 minutes on amendments to amendments, and other motions; 40 minutes on the Javits amendment, the time to be equally divided, as will the 30 minutes, and we will, for the time being, exclude the Stevens proposal in which the Senators from Indiana and Alaska are interested and, hopefully, an agreement can be reached overnight; and 2 hours on the bill under the regular procedure.

The PRESIDING OFFICER. Would the distinguished majority leader advise the Chair on which bill?

Mr. MANSFIELD. S. 3792.

The PRESIDING OFFICER. S. 3792. Is there objection?

Mr. GRIFFIN. Mr. President, reserving the right to object at this moment——

The PRESIDING OFFICER. The Senator from Michigan.

Mr. GRIFFIN. I regret that for the moment I will have to temporarily object until we can check with one Senator. I think it will be all right.

Mr. MANSFIELD. Fine. I will be delighted to withhold that for the time being.

Then, on Thursday, it is anticipated that we will take up the Public Works appropriation bill. There may be the Department of Transportation appropriation bill ready for consideration by the Senate on Friday, and if we finish all those appropriation bills, we will not be in on Saturday, but if we do not, we will be in on Saturday; and that is about the best I can do at this time.

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

Mr. MANSFIELD. Yes.

Mr. ALLEN. Has there been an hour set for the vote on the cloture motion on Thursday?

Mr. MANSFIELD. Not yet, but I hope when the Senator from Connecticut (Mr. RIBICOFF) comes to the floor he will give the Senate that information.

Mr. ALLEN. Fine.

Mr. MANSFIELD. We will try to nail it down.

Mr. GRIFFIN. The majority leader did not mention the atomic energy bill.

Mr. MANSFIELD. That is set for Thursday. That will be taken up Thursday, along with the Public Works appropriation bill, and we have a time limitation on that bill, as the distinguished Senator from Vermont (Mr. AIKEN) is aware, because he agreed to it even though we developed it in his absence.

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to the consideration of the conference report (H.R. 15472).

The yeas and nays have been ordered.

The question is on agreeing to the conference report.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from Arkansas (Mr. FULBRIGHT), and the Senator from Alabama (Mr. SPARKMAN) are necessarily absent.

Mr. GRIFFIN. I announce that the Senator from Kentucky (Mr. COOK), the Senator from New Mexico (Mr. DOMENICI), the Senator from Hawaii (Mr. FONG), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

I further announce that, if present and voting, the Senator from Hawaii (Mr. FONG) would vote "yea."

The result was announced—yeas 67, nays 26, as follows:

[No. 337 Leg.]

YEAS—67

Abourezk	Hartke	Muskie
Aiken	Haskell	Nelson
Allen	Hatfield	Packwood
Baker	Hathaway	Pastore
Bayh	Hruska	Pearson
Beall	Hughes	Pell
Bellmon	Humphrey	Percy
Bentsen	Inouye	Randolph
Bible	Jackson	Schweiker
Brock	Javits	Scott, Hugh
Burdick	Johnston	Stafford
Byrd, Robert C.	Kennedy	Stennis
Case	Long	Stevens
Church	Magnuson	Stevenson
Clark	Mansfield	Symington
Cranston	Mathias	Taft
Curtis	McClellan	Talmadge
Dominick	McGee	Thurmond
Eagleton	McGovern	Tunney
Eastland	Metcalf	Williams
Ervin	Mondale	Young
Gravel	Montoya	
Griffin	Moss	

NAYS—26

Bartlett	Fannin	Metzenbaum
Bennett	Goldwater	Nunn
Brooke	Gurney	Proxmire
Buckley	Hansen	Ribicoff
Byrd, Harry F., Jr.	Hart	Roth
Cannon	Helms	Scott, William L.
Chiles	Hollings	Tower
Cotton	Huddleston	
Dole	McClure	
	McIntyre	

NOT VOTING—7

Biden	Fong	Sparkman
Cook	Fulbright	Weicker
Domenici		

So the conference report was agreed to.

Mr. McGEE. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. MANSFIELD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The clerk will state the amendment in disagreement.

The assistant legislative clerk read as follows:

Strike out the matter stricken by said amendment and in lieu of the matter inserted, insert: ". Such information for carrying out specific law enforcement responsibilities of the Federal Trade Commission shall be obtained under existing practices and procedures or as changed by law."

Mr. McGEE. Mr. President, I move that the Senate concur in the amendment of the House.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Wyoming.

The motion was agreed to.

Mr. McGEE. Mr. President, I ask unanimous consent that a provision of law which requires that a conference report be printed as a Senate report be waived since the report is identical to that which the House of Representatives has already printed.

The PRESIDING OFFICER. Is there

objection? Without objection, it is so ordered.

Mr. McGEE. Mr. President, I ask unanimous consent that the conference table which was included by the House when it acted on the pending report be incorporated in the RECORD by reference. This table gives the complete result of the conference in tabular form and shows a comparison of the conference action.

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

ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, first, I ask unanimous consent that Calendar Order 985, S. 3792, the extension of Export Administration Act, be laid aside temporarily, along with Calendar 857, S. 707, the Consumer Protection Act.

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

TREASURY, POSTAL SERVICE, AND GENERAL GOVERNMENT APPROPRIATION ACT, 1975

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate turn to the consideration of Calendar 988, H.R. 15544, that it be laid before the Senate and made the pending business.

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

The legislative clerk read as follows:

A bill (H.R. 15544) making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for 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.

EXPORT ADMINISTRATION ACT AMENDMENTS OF 1974—UNANIMOUS-CONSENT AGREEMENT

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the Senate returns to the consideration of Calendar No. 985, S. 3792, which will be after the disposition of the Treasury, Postal Service, Executive Office of the President appropriation bill on tomorrow, that there be a time limitation of 30 minutes on all amendments to that bill, the time to be equally divided between the manager of the bill and the sponsors of the amendments; that there be 40 minutes on the Javits amendment, the time to be divided on the same basis; that there be 2 hours on the bill, and that it be offered in the regular order.

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

Mr. JAVITS. Mr. President, is it understood that the amendment I am offering will be in order?

Mr. MANSFIELD. It will be in order.

Mr. JAVITS. Reserving the right to objection, I want it stipulated that the amendment I will offer which is at the desk will be in order.

Mr. MANSFIELD. It was so stated. It was included by name.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Montana? Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, this does not include a motion to be made, perhaps by the distinguished Senator from Alaska tomorrow, in relation to an amendment which had been proposed in the past by the distinguished Senator from Indiana (Mr. BAYH).

The PRESIDING OFFICER. It does not include any debatable motions or appeals. There will be no time limitations on debatable motions or appeals.

Mr. MANSFIELD. That is correct.

TREASURY, POSTAL SERVICE, AND GENERAL GOVERNMENT APPROPRIATION ACT, 1975—UNANIMOUS-CONSENT AGREEMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on the Treasury, Postal Service appropriation bill, which is to come up on tomorrow after the morning business is concluded, there be a time limitation thereon of 2 hours, to be equally divided between Mr. MONTOYA and the ranking minority member of the committee (Mr. BELLMON) and that there also be a time limitation on any amendment thereto of 30 minutes, with a time limitation on any debatable motion or appeal of 20 minutes, and that the agreement with regard to the division and control of time be in the usual form.

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

PUBLIC WORKS, AEC APPROPRIATIONS, 1975—UNANIMOUS-CONSENT AGREEMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on the Public Works appropriation bill—and this has been cleared with Mr. STENNIS and with the Republican leadership—there be a time limitation of 4 hours, the time to be equally divided between Mr. STENNIS and the ranking Republican member on the subcommittee; that there be a time limitation on any amendment thereto of 30 minutes; a time limitation on any debatable motion or appeal of 20 minutes, and that the agreement with regard to the division and control of time be in the usual form.

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

EXTENSION OF THE EXPORT-IMPORT BANK ACT OF 1945

Mr. STEVENSON. Mr. President, I send to the desk a joint resolution to extend the Export-Import Bank for 30 days, until August 31, 1974, and ask unanimous consent for its immediate consideration.

The PRESIDING OFFICER (Mr. NUNN). The joint resolution will be read for the information of the Senate.

The joint resolution (S.J. Res. 229) was read the first time by title and the second time at length, as follows:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That section 8 of the Export-Import Bank Act of 1945 is amended by striking out "July 30" and inserting in lieu thereof "August 31".

The PRESIDING OFFICER. Is there objection to the immediate consideration of the joint resolution?

There being no objection, the Senate proceeded to consider the joint resolution.

Mr. STEVENSON. Mr. President, the authority under this act expires on July 30, tomorrow. The Senate Committee on Banking, Housing and Urban Affairs will report a bill to the Senate within a few days. The House Banking Committee is in the process of marking up a bill to extend the authority of the Export-Import Bank. This resolution is necessary in order for the Bank to continue its operations until Congress can enact permanent legislation.

For the benefit of some Senators, including the Senator from Virginia (Mr. HARRY F. BYRD, JR.), the Bank assures me that it will not make any loans in the Soviet Union during this 30-day period.

The joint resolution has been cleared with the Senator from Oregon, the ranking member of the Subcommittee on International Finance, and I urge its approval.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed for a third reading, read the third time, and passed.

ORDER OF BUSINESS

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

ORDER FOR RECOGNITION OF SENATORS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow after the two leaders or their designees have been recognized under the standing order the following Senators be recognized each for not to exceed 15 minutes, and in the order stated: Mr. BUCKLEY, Mr. EAGLETON, and Mr. ROBERT C. BYRD.

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

Mr. ROBERT C. BYRD. As far as my time is concerned, I do not presently intend to use it, but I will have it available in the event any Senator wishes to partake of it on either side of the aisle.

ORDER FOR TRANSACTION OF ROUTINE MORNING BUSINESS TOMORROW; ORDER FOR CONSIDERATION OF VARIOUS BILLS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that following the order for recognition of Senators on tomorrow, there be a period for the transaction of routine morning business of not to exceed 15 minutes, with statements limited therein to 3 minutes; and at the conclusion of the period for routine morning business, the Senate proceed to the consideration of the bill making appropriations for the Treasury Department and U.S. Postal Service (H.R. 15544); and that upon the disposition of that bill, the Senate resume consideration of S. 3792, a bill to amend and extend the Export Administration Act of 1969; and that the unfinished business (S. 7007) be laid temporarily aside and remain in a temporarily laid aside status until the disposition of both of the bills (S. 3792 and H.R. 15544) or the close of business tomorrow, whichever is the earlier.

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

ORDER FOR ADJOURNMENT UNTIL 9:45 A.M. ON THURSDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business on tomorrow, it stand in adjournment until the hour of 9:45 a.m. on Thursday.

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

ORDER FOR TRANSACTION OF ROUTINE MORNING BUSINESS AND FOR CONSIDERATION OF VARIOUS BILLS ON THURSDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Thursday, after the two leaders or their designees have been recognized under the standing order, 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; at the conclusion of which the Senate proceed to the consideration of Calendar Order No. 992 (H.R. 15155), the public works appropriation bill; and that upon the disposition of that bill, the Senate proceed to the consideration of H.R. 15323, the act to amend the Atomic Energy Act of 1954; and that the unfinished business remain in a temporarily laid aside status until the disposition of the Atomic Energy Act of 1954, or until the close of business on Thursday, whichever is the earlier, with the single proviso that the 1 hour of debate on the motion to invoke cloture on the Consumer Protection Act be scheduled at some point during the day—to be decided tomorrow—and that the cloture vote occur thereon accordingly.

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

Mr. GRIFFIN. Mr. President, reserving the right to object, was there any request for agreement with regard to a vote on cloture on Thursday?

Mr. ROBERT C. BYRD. No. I merely made provision that at some time during the day that would be decided, and hopefully tomorrow the Senators will be able to agree on the time.

Mr. GRIFFIN. All right.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will convene tomorrow at 10 a.m.

After the two leaders or their designees have been recognized under the standing order, Mr. BUCKLEY will be recognized, Mr. EAGLETON will be recognized, and Mr. ROBERT C. BYRD will be recognized, in that order, each for not to exceed 15 minutes; there will then ensue a period for the transaction of routine morning business of not to exceed 15 minutes, with statements limited therein to 3 minutes each.

At the conclusion of routine morning business, the Senate will take up the appropriation bill for the Department of the Treasury and the U.S. Postal Service and for other purposes, under a time limitation.

There will undoubtedly be at least one rollcall vote, that being on passage, as is the normal practice here, and there could very well be rollcall votes on amendments thereto.

On the disposition of the Treasury Department appropriation bill, the Senate will resume consideration of S. 3792, a bill, to amend and extend the Export Administration Act of 1969, and yea and nay votes will probably occur on amendments thereto. In any event, a rollcall vote will likely occur on passage.

Conference reports, being privileged matters, may be called up at any time, and yea and nay votes can occur thereon.

Other calendar measures cleared for action may be called up at any time and votes may occur thereon.

May I say that it is almost a certainty that the Senate will be in session on Friday. There will be business to be transacted. If agreements can be worked out permitting the Senate to complete its work by the close of business on Friday, there will be no necessity for a Saturday session this week.

ADJOURNMENT TO 10 A.M.

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 10 a.m. tomorrow.

The motion was agreed to, and at 6:20 p.m., the Senate adjourned until tomorrow, Wednesday, July 31, 1974, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate July 30, 1974:

DEPARTMENT OF JUSTICE

Antonin Scalia, of Virginia, to be an Assistant Attorney General, vice Robert G. Dixon, Jr., resigning.

IN THE AIR FORCE

The following officer under the provisions of title 10, United States Code, section 8066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 8066, in grade as follows:

To be lieutenant general

Maj. Gen. James E. Hill, [redacted] FR (brigadier general, Regular Air Force), U.S. Air Force.

The following officer under the provisions of title 10, United States Code, section 8066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 8066, in grade as follows:

To be lieutenant general

Maj. Gen. Donald G. Nunn, [redacted] FR (brigadier general, Regular Air Force), U.S. Air Force.

IN THE NAVY

The following-named officers of the U.S. Navy for permanent promotion to the grade indicated in the line subject to qualification therefor provided by law:

LINE

Lieutenant

Algoso, Donna Jean
Allen, Barbara Ann
Almendinger, Sylvia Sue
Anzelon, Judy Marie
Berger, Janellyn Lu
Beuerlein, Susan Cooley
Black, Carolyn Faye
Brenneman, Cynthia Angel
Church, Charlotte Marie
Clarke, Kathryn Marie
Clemons, Patricia Elaine
Cloud, Caryl Lee
Connell, Mary Kay
Conner, Barbara Ann
Crawford, Judith Shirline
Debien, Margaret Suzanne
Devine, Isabel Margaret
Dial, Kathy Lynn
Dickinson, Nancy Lewis
Dixon, Kathleen Janet
Eddleman, Rickee Dian
Fenoughty, Carolyn Annette
George, Caroline Wharton
Goodwin, Donna Marie
Graham, Linda Lou
Gramprie, Gail Lynn
Hall, Evelyn
Hanel, Lynne Ulmer
Harkness, Mary Anne
Harlow, Margaret Ann
Hearn, Judith
Heil, Frances Taney
Herring, Sonja Micheline
Hurl, Linda Lou
Janssens, Carol Jean
Jenkins, Jean Ann
Jenkins, Judith Boyle
Johnson, Ingrid Ann
Kerr, Ann Elizabeth
Korff, Susan Colbeth
Krouse, Cheryl Margaret
Lallas, Lisalee Anne Wells
Lathrop, Barbara Ann
Liebundguth, Mary Candace
Liberatore, Mary Ann
Marlitt, Marlene
Mason, Melinda Ann
Masucci, Ann Theresa
Mayhew, Catherine Howze
McClelland, Susan Irene
McWhirter, Janice Helena
Meldrum, Mary Stift
Messier, Dorothy Leda
Miller, Barbara Jean
Miller, Kathleen Anne
Moore, Alice Marie
Moore, Shirley Lee
Mullen, Kathleen Ann
Nevins, Linda Gail
Oliver, Diane Estelle
Owens, Terry Lynn
Paige, Kathleen Koehler
Raaz, Ouida Lavonne
Raftery, Mary Theresa

Ricker, Margaret Ann
Robinson, Sherry Lee
Rogers, Susan Elaine
Rose, Marilyn Ruth
Roux, Anne Pauline
Schlosser, Helen Ann
Schnaars, Carolyn James
Shaughnessy, Ruth Catherine
Shelton, Diana Claire
Shipman, Mary Catherine
Smith, Audrey Lorraine
Stankowski, Barbara Jo
Starnes, Kathleen Maria
Stephens, Susan Helm
Thomas, Margaret Garrett
Thompson, Sharon Kay
Wiechert, Annette Marie
Williams, Arrena Sue
Williams, Lilian Ann
Winter, Mary Christine
Zasadni, Veronica
Ziegler, Mary Margaret

IN THE MARINE CORPS

The following-named officers of the Marine Corps Reserve for temporary appointment to the grade of colonel:

John M. Adams, Jr.
Ernest O. Agee
Eugene S. Asher
Norman S. Ashworth
Ralph R. Bagley
Fontaine Banks, Jr.
Paul R. Bean
Boyd H. Beckner
John H. Bemis
Joseph L. Benero
Anthony J. Bernitsky
Kay D. Bjorklund
Louis L. Bloom
Robert M. Book
Lewis H. Booth
William F. Burks
Irl E. Brown
John E. Brown
Thomas D. Burnette
Raymond A. Carey
Edward J. A. Castagna
Kenneth J. Clifford
Martin L. Clifford
William F. Coffey
Thomas R. Currie
Joseph P. Daly III
Ralph Delucia, Jr.
William Deplitch
Thomas D. Deshazo
David F. Devine
Roger J. Dorian
Leon S. Dure III
William R. Emrich
Harry W. Farris
James G. Flynn
Richard A. Fogarty
Billy J. Fowler
James L. Fowler
Richard M. Fowler
Billy D. Fritsch
George D. Funston
Coleman P. Geary
William J. Geiger
Aubrey W. Gilbert
Alexander J. Gordon III
William C. Groeniger III
Nathan S. Hale
Willard J. Harnden
Frederick L. Harris
Russell J. Hendrickson
Claude S. Jackson
James D. Keast
Jack K. Kiely
George R. Killam
Robert E. King, Jr.
Stuart D. Kisten
Charles F. Knapp
Edward T. Koch, Jr.
Henry L. Land, Jr.
Lawrence E. Lawler
Anthony H. Loughran
John R. Lukeman
Richard E. Madory
Gerald P. Mahoney, Jr.
Jack D. McPeak
Frank J. Mellis
Wilfred G. Mitchell
Richard L. Mize
Richard L. Moeller
Theodore F. Moellering
Charles L. Murphy
John P. Murtha, Jr.
Lawrence R. O'Grady, Jr.
Francis J. O'Rourke
Norman B. Patberg, Jr.
William G. Paul
William R. Pearman
Cecil L. Perrette, Jr.
Thomas M. Pickford
William G. Plummer
Joe D. Prater
Kenneth R. Price
Richard J. Rawlings
Jerry J. Repetski
Robert D. Rogers
John D. Rostad
Jack Salter
Constantine, Sangalis
John G. Schmitz
William E. Schneider
John J. Schwab, Jr.
Stanley R. Scott
George L. Shelley III
Richard O. Spencer
Lloyd V. Stamp
Hugh M. Stewart
Charles E. Stoll
Joseph L. Tiago, Jr.
James E. Tomlin
Gerald H. Totten
Eugene J. Tunney
John E. Turco
Malcolm S. Underwood, Jr.
Frederick E. Veno
Earl L. Wagoner
John J. Ward
John W. Warrender
Kenneth W. Meir
Ward R. Wenner
Raymond L. Wires
Perry R. Wooten
Desmond C. Wray, Jr.
Jerry C. Wulf
Austin N. Wyrick
William M. Yeager

DEPARTMENT OF STATE

Richard W. Murphy, of Virginia, a Foreign Service Officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Syrian Arab Republic.

CONFIRMATIONS

Executive nominations confirmed by the Senate July 30, 1974:

FEDERAL ENERGY ADMINISTRATION

Marmaduke Roberts Ligon, of Oklahoma, to be an Assistant Administrator of the Federal Energy Administration.

(The above nomination was approved subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

IN THE NAVY

Rear Adm. Edwin K. Snyder, U.S. Navy, having been designated for commands and other duties of great importance and responsibility commensurate with the grade of vice admiral within the contemplation of title 10, United States Code, section 5231, for appointment to the grade of vice admiral while so serving.

EXTENSIONS OF REMARKS

INDIVIDUAL RIGHTS

HON. BILL ARCHER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 30, 1974

Mr. ARCHER. Mr. Speaker, I have been very much concerned with the need to protect individual freedom in our system of government. Some of the most vocal proponents of civil rights and individual rights fall strangely silent when it comes time to protect the right of the individual to decide on union membership. I would like to enter into the CONGRESSIONAL RECORD a column by James Jackson Kilpatrick entitled "Greatest Civil Righter?" which appeared in the Monday, July 22, 1974, edition of the Washington Star-News:

GREATEST CIVIL RIGHTER?

(By James J. Kilpatrick)

You could turn the Washington beat into a metaphorical Mesabi Range and never find a story richer in irony than the story of Joe Rauh, the great labor unions and the National Right to Work Legal Defense and Education Foundation.

Joseph L. Rauh Jr. is one of the most colorful characters in town. He is a big, rangy guy, with the mobile face of an old Shakespearean actor. At 63, he is a top contender for the title of the Greatest Civil Righter of Them All.

Rauh possesses every conceivable credential in the field. His degree, naturally, is Harvard Law. He was a clerk to Justices Cardozo and Frankfurter. He was for many years counsel to the United Auto Workers. For the past 10 years, he has been general counsel for the Leadership Conference on Civil Rights. He is a former chairman of Americans for Democratic Action. He is a life member of the National Association for the Advancement of Colored People.

And what has old Joe been up to lately? His major purpose in life just now is to strangle the civil rights of nonunion workers. He is bent on destroying a legal aid foundation whose charter is patterned precisely, paragraph by paragraph, upon the charter of the NAACP's Legal Defense Fund. He is determined to win a court order directing disclosure of the names of contributors to a private fund. Holy smokes! How come?

This astounding tergiversation has resulted from the tail-twisting and nose-tweeking of the right to work leaders, who six years ago established a fund "to render legal aid gratuitously to workers who are suffering legal injustice as a result of employment discrimination under compulsory unionism arrangements, and to assist such workers in protecting rights guaranteed to them under the Constitution and laws of the United States." As noted, the language was adapted directly from the NAACP's identical fund.

Over these past six years, the Right to Work Fund has managed to make a real nuisance of itself—at least in the eyes of 10 of the largest and most powerful unions in the country. The Fund has involved itself in 50 lawsuits seeking to protect the civil rights of workers. Little by little, against great odds, the Fund is winning some precedents that may give the little guy—the kind of little guy Joe Rauh once fought and bled for—a fighting chance against the brute power of organized labor.

Last year the 10 big unions ganged up, hired Rauh as chief counsel, and brought a suit to drive the Right to Work Legal Foundation out of existence. Their chief weapon, to add to the ironies, is a provision of the Labor Management Reporting and Disclosure Act, once known as the working man's Bill of Rights. This provision prohibits "interested employers" from financing or encouraging lawsuits by workers against unions. Rauh's theory is that the Fund is a mere conduit, a sham or front, for union-busting employers.

A couple of weeks ago, Rauh won a round. He got an order from U.S. District Judge Charles R. Richey here, compelling the Foundation to surrender a list of 190 employer contributors. Richey is a knee-jerk liberal who has swallowed Rauh's theory whole, that the nonunion worker has no civil rights a union is bound to respect. In a ludicrous restriction upon this compelled disclosure, Richey has ordered Rauh not to show the list of contributors to anyone except union officials, labor goons, bully-boys and other interested parties.

The Fund, of course, is desperately appealing Richey's order. If the disclosure order sticks, the Right to Work Fund would find itself in the same peril asserted by the NAACP when the Commonwealth of Virginia sought a list of its members in 1962. The Supreme Court finally rejected Virginia's demand. It is marvelous, is it not, to find Rauh on the other side of a disclosure issue. What is the old civil righter doing there?

If Rauh and his 10 Goliaths win, there will be no way—no way—for nonunion workers to defend themselves effectively against the discrimination, abuse, physical violence and deprivation of civil liberties imposed by compulsory unionism. Those who truly believe in civil rights will pray that the Greatest Civil Righter of Them All falls flat on his old Shakespearean face.

CHILD MENTAL HEALTH WEEK

HON. RICHARD S. SCHWEIKER

OF PENNSYLVANIA

IN THE SENATE OF THE UNITED STATES

Tuesday, July 30, 1974

Mr. SCHWEIKER. Mr. President, the International Council on Child Psychia-