referred to the Committee on Labor and Public Welfare, since that committee has the preponderance of jurisdiction over matters relating to mining safety.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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 President, I ask unanimous consent that the order for the quorum call be rescinded.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

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the program for tomorrow is as follows:

The Senate will convene at the hour of 10 a.m. After the two leaders or their designees have been recognized under the standing order, the minority and majority whips will each be recognized for not to exceed 10 minutes and in that order; after which the Senate will resume the consideration of the unfinished business, the legal services bill.

Yea and nay votes will occur on amendments thereto throughout the day. A final vote will occur on the bill not later than the hour of 9 p.m. tomorrow.

It is the understanding, Mr. President, that after the passage of the bill or whatever the disposition of the bill is on tomorrow, the Senate will resume consideration of the Genocide Convention, on Friday, and that if the House bill dealing with legal services has not been disposed of on tomorrow, the Senate will likely take up the House bill at some point next week.

RECESS UNTIL 8:30 P.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 recess until the hour of 8:30 p.m. today, at which time Senators will assemble to go in a body to the Hall of the House of Representatives where they will receive the President's state of the Union address, on the completion of which the Senate will stand in adjournment until the hour of 10 a.m. tomorrow.

The motion was agreed to; and, at 4:45 p.m., the Senate took a recess until 8:30 p.m.; at which time the Senate reassembled when called to order by the Presiding Officer (Mr. CLARK).

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed in a body to the Hall of the House of Representatives to hear the President deliver his state of the Union address, after which, under previous order, the Senate stands adjourned until the hour of 10 a.m. tomorrow.

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

JOINT SESSION OF THE TWO HOUSES—MESSAGE OF THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 93-206)

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the Hall of the House of Representatives for the joint session.

Thereupon (at 8:40 p.m.), the Senate preceded by the Assistant Secretary of the Senate (Darrell St. Claire), the Sergeant at Arms (William H. Wannall), and the Vice President, proceeded to the Hall of the House of Representatives to hear the address by the President of the United States on the state of the Union.

(The address by the President of the United States, this day delivered by him to the joint session of the two Houses of Congress, appears in the proceedings of the House of Representatives in today's RECORD.)

ADJOURNMENT

At the conclusion of the joint session of the two Houses, and in accordance with the order previously entered, at 9:57 p.m., the Senate adjourned until tomorrow, January 31, 1974, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate, January 30, 1974:

DEPARTMENT OF STATE

L. Douglas Heck, of the District of Columbia, a Foreign Service Officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Niger.

DEPARTMENT OF JUSTICE

Earl J. Silbert, of the District of Columbia, to be U.S. attorney for the District of Columbia vice Harold H. Titus, Jr., resigned.

HOUSE OF REPRESENTATIVES—*Wednesday, January 30, 1974*

The House met at 12 o'clock noon.

Rev. Wladimir Borowsky, executive secretary of the Ukrainian Evangelical Alliance of North America, offered the following prayer:

Our Heavenly Father, we thank Thee for this land of the United States of America, which has always been a refuge for those who have been persecuted. We realize that true religious and political freedom for man and nations has not yet been realized everywhere. Among those still deprived of it are the Ukrainians. They need our understanding, prayers, and help. Our Lord, we beseech Thee to be their strength and refuge. Help them to regain their freedom. Bless our President, the members of his Cabinet, and the Members of the Senate and House here congregated. Help them to be good servants of our people and mankind.

In the name of Jesus, our Lord, hear us. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

ARAMCO AND THE LOGAN ACT

(Mr. KOCH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KOCH. Mr. Speaker, Senator JACKSON's Permanent Investigations Subcommittee now investigating the oil companies has adduced evidence which shows that Aramco, a U.S. corporation, at the direction of King Faisal of Saudi Arabia, withheld oil from our armed services and in particular the U.S. fleet in the Mediterranean. The oil was in Aramco's possession—in storage outside of Saudi Arabia. According to the subcommittee, Aramco's action occurred at a very sensitive time: during the recent war between Israel and the Arab States when our own Defense Department was concerned about the worldwide ramifications of the Middle East hostilities and our own defenses were on alert. Pivotal to our own national security interests was the Mediterranean fleet.

Others have said, and I concur, that at the very least this was an immoral act, detrimental to the vital interests of the United States. But I believe that it is more than that. I believe that Aramco, which is owned by Exxon, Mobil, Standard of California, and Texaco, violated among other laws of the United States, the Logan Act by having discussions with a foreign power and executing the instructions of that foreign power, in this case Saudi Arabia, on matters relating to U.S. foreign policy. I have asked the Department of Justice to advise me as to what action it is undertaking in this matter. American corporations, large as they may be and powerful as they are, must not be permitted to violate with impunity the laws that govern all of us.

REV. WLADIMIR BOROWSKY

(Mr. BLACKBURN asked and was given permission to address the House for 1 minute, to revise and extend his remarks, and to include extraneous matter.)

Mr. BLACKBURN. Mr. Speaker, it is my very great pleasure to have brought to the House today for the opening prayer the Reverend Wladimir Borowsky. Reverend Borowsky is a native of the Ukraine, having been born there.

Mr. Speaker, I am going to insert in the RECORD a biography of Reverend Borowsky for the purpose of advising my colleagues in more detail of his full history and background. The biography of Reverend Borowsky tells vividly of the brutality and lack of human rights

demonstrated by the very brutal Soviet Government in the Soviet Union.

Mr. Speaker, the main message I would like to convey today is that the Reverend Borowsky, as we were walking over, said:

Although I was born in the Ukraine, I consider myself an American citizen first.

He said he considers himself a late-arriving Pilgrim.

The biography of Reverend Borowsky is as follows:

Pastor Wladimir Borowsky was born into the family of Luke Borowsky, by profession a medical assistant, and his wife Domnikia, in the town of Zinkiv, province of Kamianets Podilsky, on January 18, 1907. He was raised, however, in province Volhynia, which by this time was a Russian province. Here he acquired his formal education, but completed his theological studies in western Poland.

In his youth, Pastor Borowsky became one of the organizers of the Ukrainian scouts movement in the Rivno area (Volhynia). Because of his educational and scouting activities, and his being a stateless person, he was expelled from Volhynia by Polish provincial authorities in 1928. And in 1931, the Pomern provincial authorities ordered his banishment from Poland because of his religious convictions. However, the Polish Ministry of Internal Affairs intervened, rescinding the order on the grounds that the Polish Constitution guaranteed freedom of religious belief and that Pastor Borowsky's conduct was loyal and moral. After completing his theological studies in 1932, he was ordained pastor of the Ukrainian Evangelical-Reformed Church and carried out his church duties in various church communities in Galicia.

Having suffered persecution at the hands of the Soviets, he felt compelled to leave his native land, together with his family, at the beginning of 1940 and spent the rest of the war years in western Germany. During and after the war, he was engaged in providing spiritual solace and every possible comfort to Ukrainians and other war victims, displaced from their homelands. In 1947, through the good offices of the World Council of Churches and Bishop Basil Kusiw of the Ukrainian Evangelical-Reformed Church, who was an American citizen, he emigrated to the United States of America. Here he became involved in activities concerned with the resettling of Ukrainian and other refugees to this country, religious and charitable undertakings, and the work of the Ukrainian Evangelical Alliance of North America.

In 1955, Pastor Borowsky was nominated to the post of Executive Secretary of this organization, and in 1961 to that of editor of Yevanhelsky Ranok (Evangelical Morning). He participated in the congresses of American Ukrainians as representative of the Ukrainian Evangelical Alliance of N.A. (UEA PA) and also was an active participant in the First and the Second World Congress of Free Ukrainians in New York City (1967) and Toronto (1973). During the period from 1971 to the end of 1973, Pastor W. Borowsky was a member of the Presidium of the Secretariat of the World Congress of Free Ukrainians and its member in the Commission of Human Rights.

Pastor W. Borowsky is also known for his journalistic work in the Ukrainian religious and secular press, and has written his memoirs that span his life and work up to his arrival in the United States.

He has been, and is, greatly assisted in his work by his wife Alexandra, who had completed her theological studies in England. Her command of English has been of great help in their common efforts both in Europe and here in America. Pastor W. Borowsky is proficient in five languages: Ukrainian, Polish, Russian, German, and fair in English.

Pastor Borowsky's sister Vira perished in a Soviet torture-chamber. In 1947, his parents, together with other surviving members of the family, were deported to Siberia, where his mother died. After ten years, his paralyzed father was allowed to return to Western Ukraine, where he passed away within a year's time. Pastor W. Borowsky has two sons: Leo (a businessman), Victor (a lawyer), and a daughter Daria (wife of a medical doctor).

Presently, Pastor W. Borowsky resides in Dunwoody, Georgia.

BUFFET DINNER IN RESTAURANT TONIGHT

(Mr. HAYS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HAYS. Mr. Speaker, I just want to announce to the Members here and hope they will tell their colleagues who are not here that we have arranged to have a buffet dinner in the restaurant tonight in view of the fact that there will be a session at 9 o'clock. The buffet will start at 5:30 and will feature steamship round of beef and everything as free choice that goes with it including fruit and dessert at the price of $4 a head.

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

Mr. HAYS. I yield to the gentleman from Iowa.

Mr. GROSS. Mr. Speaker, on an occasion of the kind we will have this evening is dinner not on the House?

Mr. HAYS. No, definitely not on the House. I tried to get the White House to pick up the check but they would not do it, so Members will have to pay their own check.

CONGRESS KEPT IN DARK ON COPIES OF THE BUDGET

(Mr. HECHLER of West Virginia asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HECHLER of West Virginia. Mr. Speaker, a few minutes ago I called the Office of Management and Budget without identifying myself and asked when the press can pick up copies of the budget. They very agreeably responded that any members of the press can come to the Executive Office Building between 4 o'clock and 5:30 on Friday to pick up the budget copy.

I then called back and identified myself as a Member of Congress, and said I desperately needed a copy of the budget, and asked when would be the earliest possible date I could pick one up. I was advised that it would be delivered to my office sometime late Saturday afternoon after I had left my office.

Mr. Speaker, I know that the administration is using desperate means to cultivate better relations with the news media but, Mr. Speaker, I think it is outrageous that Members of the Congress have to wait at least 24 or more hours after the press and media get copies of the budget before Members of Congress can receive their copies.

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

Mr. HECHLER of West Virginia. I yield to the gentleman from Michigan.

Mr. CEDERBERG. Mr. Speaker, this has been a regular practice with the previous administrations, if the gentleman will recall, including Presidents Eisenhower and Kennedy and Johnson and Nixon.

Mr. HECHLER of West Virginia. That does not make it any better.

Mr. CEDERBERG. They have always had this problem. I am the ranking minority member on the Appropriations Committee and I have always had a problem with this myself, but as a matter of fact I think when we get the budget it will be soon enough.

Mr. HECHLER of West Virginia. I thank the gentleman from Michigan for his contribution.

SATELLITE OVER APPALACHIA

(Mr. CARTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CARTER. Mr. Speaker, oftentimes we here in Congress learn of actions of the various executive agencies through the newspapers. This morning, I picked up the Courier-Journal of January 27, 1974, and in it I read that a satellite costing $209 million would be sent to hover over Appalachia and beam programs to teachers in schoolrooms in that area for the purpose of affording them the opportunity of continuing education.

For years, the different universities of Kentucky have had programs in which teachers from those universities go into the schoolrooms throughout every county in Kentucky—so far as I know—and give courses to teachers who want to advance their training.

Another purpose of this satellite is to coordinate new ideas in medical training by the veterans' hospitals.

With our communications system such as we have today, we need this satellite over Appalachia as bad as we need a hole in the head. Actually, the money could be more wisely used for housing, job training, jobs, and hospitals.

I submit that before such programs are placed into effect, that the representative of the area affected should at least be consulted.

FEDERAL ENERGY ADMINISTRATION ACT

(Mr. HORTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HORTON. Mr. Speaker, I wish to express my strongest possible objections to the removal of the bill, H.R. 11793, from the calendar for consideration today. I think the Democratic leadership has ill-served this House and the Nation by this decision. This bill is urgently needed and there was no reason why we could not have continued considering it today. How much longer will the Nation have to wait before the congressional leadership is able to get through legislation to meet our energy crisis?

Yesterday afternoon we began and

concluded general debate on H.R. 11793, the Federal Energy Administration Act. By previous agreement with the chairman of the Interstate and Foreign Commerce Committee (Mr. STAGGERS) we did not take up amendments yesterday.

My understanding of the agreement was that once the conference report on the National Energy Emergency Act had been voted on in the Senate yesterday afternoon, we would be able to proceed with amendments to our bill.

I fully expected that this afternoon we would be able to take up amendments to the Federal Energy Administration bill.

About a quarter to twelve today the Office of the Majority Leader, Mr. O'NEILL, informed me that we would not take up amendments to H.R. 11793 today, and furthermore, they did not know when they would be taken up.

In my judgment, this is not good legislative procedure. The Committee on Government Operations has spent a lot of time on this bill. We reported the bill before the Christmas recess on December 19. We asked for and received a rule for the bill. Yesterday the rule was adopted and we concluded general debate. We are now ready to start with amendments, and I think we should do so immediately. It is a very important bill that should not be held up for political reasons.

The FEA bill is urgently needed to provide the organizational capability to run both existing and new energy programs. It complements the Energy Emergency Act, as has been recognized by Mr. STAGGERS and his committee, in both the committee report and the conference committee report on his bill. There are numerous technical and legal problems involved in trying to operate an energy coordinating agency without statutory authority, as Mr. Simon is trying to do now. He has asked for this legislation, and my committee was fully convinced that it was necessary to proceed as quickly as we could to establish the FEA. The Senate apparently felt this way too, because they passed the bill on December 19, 1973, by a vote of 86 to 2.

This legislation is necessary whether or not the Energy Emergency Act becomes law; it is necessary to run the programs we have at the present time. As I said in my statement yesterday, I support the energy emergency conference bill, but I do think it is necessary for us to proceed with this bill as quickly as possible. It should not be held up by legislative difficulties with the Energy Emergency Act.

I think the Democratic leadership is causing unnecessary risks for the American people by withholding the FEA bill from floor consideration.

FEDERAL ENERGY ADMINISTRATION BILL

(Mr. DEVINE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DEVINE. Mr. Speaker, I have to protest the procedure that has occurred here on the floor today wherein the leadership has unilaterally decided to pull the bill off that was scheduled for action. What it amounts to, they are holding this bill as hostage for action by the conference committee on the energy bill that was voted upon yesterday in the Senate.

It seems to me that we can get on with orderly legislative processes here without holding one bill hostage to see what happens to another. They both deal with energy but are not in conflict nor inconsistent with the other.

I attended a joint bipartisan leadership meeting at the White House a week ago today along with the Speaker, the majority leader, the minority leader and others. The President pointed out that we have an energy crisis to solve in this country and for the House to blame the Senate, or for the Congress to blame the White House or blame each other is beside the point.

The people back home that are not getting an additional gallon of gas out of this practice of legislative gymnastics. They are going to blame the Government, and that is all of us.

We know who controls the House and the Senate. It is up to us to get along with meaningful legislation to solve the energy problems and not get into jurisdictional or hostage disputes that will not cure anything.

THE FEDERAL ENERGY ADMINISTRATION BILL

(Mr. O'NEILL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. O'NEILL. Mr. Speaker, in reply to the gentleman from New York (Mr. HORTON) and the gentleman from Ohio (Mr. DEVINE) the leadership on the House side did meet this morning and we did decide to take off the schedule the bill that was in order for this afternoon, the Federal Energy Administration. bill.

The reason for this was that we felt it was a courtesy to the Committee on Interstate and Foreign Commerce, which also has put in numerous hours of time and labor on the conference report on the National Emergency Energy Act which was recommitted yesterday in the other body. The conferees are hoping that they can meet either this afternoon or tomorrow.

As a courtesy to that committee, and by virtue of the fact that the bill out of the Committee on Government Operations is of such wide latitude and germaneness, and we could very well go through the same demonstrations we went through just before we left on our Christmas vacation, we felt that it would be in the best interest of the House that the best way to expedite the energy matter was to allow the conference committees to meet.

If, within a reasonable time, the conferees cannot get together, we agreed that we will reschedule that bill from Government Operations.

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

Mr. O'NEILL. Mr. Speaker, I yield to the gentleman from New York.

Mr. HORTON. Mr. Speaker, I appreciate the explanation the distinguished majority leader has given to the House. I would like to ask, when is it expected that H.R. 11793, the Federal energy administration bill, will be taken up?

Mr. O'NEILL. Mr. Speaker, I cannot answer the gentleman. I cannot answer specifically because we will await a report from a meeting of the conferees.

If it is stalemated, and there is no action foreseen, we will bring it up as quickly as we can.

QUICK ACTION NEEDED ON ENERGY BILL

(Mr. FRENZEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FRENZEL. Mr. Speaker, yesterday the U.S. Senate voted to recommit the emergency energy bill. Some observers are suggesting that recommittal kills the bill.

I decided last December to support the conference report on that bill even though I knew it contained serious flaws. Title II alone is enough reason to vote for the conference report. The windfall profit section is lousy, but it does not become effective immediately, and could, in fact, serve as a good incentive to our tax committees to promptly pass good legislation in its place.

What is most important right now is that Congress has messed around with this bill for 10 weeks. If the bill dies, we will have proved ourselves incapable of dealing with the energy crisis even in an emergency. We are proving to the people of the United States that Congress lacks either the ability or the will to wrestle with the country's No. 1 problem.

I urge the House conferees not to let this energy bill die. I hope we can find a way to preserve some of the authorities of title I and all of the deferrals in title II.

For all of the criticism we have heaped upon the administration, the administration has through the temporary Executive order created an Energy Agency, and through the effective actions of its Administrator, given leadership and direction to this country on the energy problem. I hate to tell the people of my district that Congress cannot match that administration effort. But, if we cannot even pass an emergency energy bill, that is what each of us will have to tell our constituents.

FEDERAL RULES OF EVIDENCE

Mr. BOLLING. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 787 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 787

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 5463) to establish rules of evidence for certain courts and proceedings. After general debate,

which shall be confined to the bill and shall continue not to exceed four hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on the Judiciary now printed in the bill as an original bill for the purpose of amendment under the five-minute rule, and section 1 of said substitute shall be read for amendment by articles. No amendment shall be in order to said substitute except amendments offered by the direction of the Committee on the Judiciary or germane amendments printed in the Congressional Record at least two calendar days prior to the consideration of said substitute for amendment. No amendments to article V of section 1 of said substitute shall be in order. At the conclusion of such consideration, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER. The gentleman from Missouri (Mr. BOLLING) is recognized for 1 hour.

CALL OF THE HOUSE

Mr. DERWINSKI. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. O'NEILL. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 10]

Blatnik	Hanna	Rhodes
Carey, N.Y.	Hébert	Roncalio, Wyo.
Casey, Tex.	Henderson	Rooney, N.Y.
Clark	Howard	Sebelius
Clay	Jones, Ala.	Shriver
Conyers	Landrum	Skubitz
Dellums	Mailliard	Stark
Diggs	Milford	Stephens
Edwards, Calif.	Mills	Walsh
Foley	Minshall, Ohio	Winn
Ford	Perkins	Young, Ill.
Gettys	Railsback	
Gray	Reid	

The SPEAKER. On this rollcall 393 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

FEDERAL RULES OF EVIDENCE

Mr. BOLLING. Mr. Speaker, I yield 30 minutes to the gentleman from California (Mr. DEL CLAWSON), pending which I yield myself such time as I may consume.

Mr. BOLLING. Mr. Speaker, this is an unusual rule, and I believe some of the Members would like to hear its explanation. Mr. Speaker, this rule was proposed by the Committee on the Judiciary and encouraged, at least, by some members of the Committee on Rules. It is unusual in that it provides for general debate on one day and then a period of time between the general debate day and the next consideration of the bill, so that it would be possible to provide that there would be no amendments in order to article V of section 1, which the lawyers tell me is the kind of question that could easily blow up all over the place if amended.

This is a carefully thought out provision, unanimously agreed to by the subcommittee, and they spent a very long time dealing with it.

I understand the question of privilege is opened up to amendment—I am not a lawyer, so I am reporting what I understand—and that there could be all kinds of chaos. The other section and articles of the bill can be amended but only in two ways, only on an amendment offered by instruction of the Committee on the Judiciary, and it was made clear that that does not include an arrangement made on the floor among a few members of the Committee on the Judiciary. That means that the Committee on the Judiciary has to instruct the committee to offer the amendment on formal instruction.

Second, any amendment will be in order to be offered if it is published in the CONGRESSIONAL RECORD at least 2 calendar days prior to the time the amendment is to be offered. I am not absolutely sure of this but my understanding there is a possibility that the House is going to meet on both Thursday and Friday, it of course is going to meet on Monday, and there thus will be a number of opportunities for Members to devise their amendments if they wish and to publish them.

The rule is unusual but I think it is a very good rule because of the complexity of the bill and I guess the ability of the lawyer Members of the House to argue with each other over details. This makes for an orderly process and will prevent the kind of chaos that otherwise we sometimes have on the floor of the House and I believe it will be fair to every Member.

Mr. Speaker, I reserve the balance of my time unless my friend, the gentleman from Iowa, desires me to yield.

Mr. GROSS. Mr. Speaker, I would appreciate it if the gentleman would yield.

Mr. BOLLING. I yield to the gentleman from Iowa.

Mr. GROSS. Mr. Speaker, I thank the gentleman for yielding.

With respect to amendments offered by the Committee on the Judiciary, would those amendments be subject to amendment?

Mr. BOLLING. Does the gentleman from Missouri desire to comment on that? If so, I yield to him.

Mr. HUNGATE. Mr. Speaker, the gentleman raises a very fine point and I do not think we have really considered it because at this point we have no such amendments in mind. Unless such amendments have been printed in the RECORD, I suppose not, I will say to the gentleman from Iowa.

Mr. GROSS. I am not talking about amendments printed in the RECORD. Provision is made for that. I am talking about committee amendments.

Mr. BOLLING. I would answer for the Rules Committee that the rule is intended to prevent that process.

Mr. GROSS. But the rule does not prohibit it.

Mr. BOLLING. The rule does not specifically state that. It seems to me clear that it is the intent and that the only amendment that might be in order to a Committee of the Judiciary amendment under the rule is an amendment printed in the RECORD.

Mr. GROSS. But that is not what the rule says, and I believe this rule as it pertains to amendments offered by the Committee on the Judiciary would not preclude a perfecting amendment to the amendment offered by the Committee on the Judiciary or a pro forma amendment to the Judiciary Committee amendment if such there be.

Would the gentleman like to comment on that?

Mr. BOLLING. I will be glad to comment. I think the gentleman is correct. I think that is technically correct. The clear intent of the committee was to see to it that no amendments of that nature could be offered but I think the gentleman is correct in terms of the language.

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

Mr. BOLLING. I yield to the gentleman from Missouri.

Mr. HUNGATE. Mr. Speaker, the purpose of the rule is that we find here a rather complex and technical field and we sought not to close the matter but to open it up so there could be amendments but also so as to have an opportunity to respond responsibly to such amendments, and in keeping with that I would say to the gentleman I would think if the committee offered such amendments they should not be offered willy-nilly just to continue and change the bill.

That is not the purpose of this procedure. The purpose is to handle this highly technical matter, this very complex subject responsibly. We spent 10 or 11 months working in the committee on this matter. I might say it is a very complex subject matter. We would not just want to get up on the floor on the spur of the moment and offer an amendment without considering fully all the ramifications and possibilities of an amendment which would be so offered.

But we still want to leave it open. We took this 4 hours' debate for this reason. I do not foresee the Committee on the Judiciary would use over 2 or 2½ hours, if that much; but so that all Members have time of their own to question us in this debate then, this matter should lay over a week for consideration by this body and any time through this Monday Members could offer amendments as they see fit and have them printed in the RECORD and at the same time, being a technical matter, the committee could consider it and respond in a careful way before it came to the floor.

There is one area the gentleman mentioned, and that is the question of privilege. Fifty percent of the complaints the committee received, I can safely say, were directed to any changes proposed in the law of privilege. That is the reason that that section and that section only is closed.

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

Mr. BOLLING. I yield to the gentleman from Texas.

Mr. ECKHARDT. I have a similar question with respect to amendments printed.

Mr. BOLLING. I assume it would on the basis of what I am informed about the other. The clear intent, I believe, of the committee and the Committee on Rules, which did not itself draft this, was to close things off; but I think the rule as written does not close it off as tightly as both the Committee on the Judiciary and the Committee on Rules had hoped.

Mr. ECKHARDT. I thank the gentleman.

Mr. BOLLING. Mr. Speaker, I reserve the balance of my time.

Mr. DEL CLAWSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, although this may be somewhat repetitious, I want to review again, the rule as drafted by the committee on H.R. 787, provides for the consideration of H.R. 5463, Federal Rules of Evidence, under a most unusual rule. This is a modified closed rule providing for 4 hours of general debate, and making the committee substitute in order as an original bill for the purpose of amendment. In addition, the rule provides that section 1 of the substitute be read for amendment by articles. Amendments may be offered at the direction of the Judiciary Committee or if they are germane and have been printed in the record for at least 2 days prior to consideration of this bill, but amendments to article V of section 1 of the substitute are not in order. It is my understanding that article V on privileges proved to be very controversial and that the compromise worked out in the committee needs to be protected. It is also my understanding that the leadership plans to do general debate only this week and begin the amending process 1 week from today on Wednesday.

Mr. Speaker, I feel this rule is a good way to proceed on such an involved and important piece of legislation and urge its adoption.

Mr. Speaker, I yield 5 minutes to the gentleman from Indiana (Mr. DENNIS).

Mr. DENNIS. Mr. Speaker, I rise in support of this rule, which I think is a good rule for this kind of a bill. Some Members of the House know that I am not friendly to the closed rule. I have never said that in a complicated piece of legislation, such as a tax bill, there ought not be some kind of modified rule which would keep amendments down to the major matters of concern to the body and down to some reasonable scope.

What we have attempted to do in this particular rule is this; amendments are open to any section of the bill—except section (5), which I will touch on in a moment—if they are printed in the RECORD 2 days before the 5-minute rule debate.

We are going to postpone that debate a week, so that everybody will have the opportunity to do that. The only reason for that is that this is a long, technical bill. We think it fair, after all the work that has gone into it, not to have a situation where somebody can read it at the last minute and get some idea that they want to amend; but anyone, particularly any member of the bar, has got a right to be interested in the subject of rules of evidence.

What we have consciously done in this rule is to extend an opportunity to all such Members to read it and study it, and if they really have something on their minds which they think ought to be changed, all they have to do is to draw their amendment, and print it in the RECORD. All of those amendments, however many there may be, will be debated here under the 5-minute rule. We think that is correct and proper.

The reason section 5 is closed is simply this: Section 5, as presented to the committee by the court, dealt with the question of privileges; the privilege of husband and wife, physician and patient, governmental secrets, newsmen, who would have come within that subject—all such matters.

The committee felt that those were rather matters of substantive law than they were simply rules of evidence; that they did not really belong in a rules of evidence bill; and further, that we were so divided on that subject ourselves, let alone what the House would be, that we would never get a bill if we got bogged down in that subject matter which really ought to be taken up separately in separate legislation.

Therefore, we simply left the law of privileges where we found it. We did nothing with it. We said that it will be decided according to principles of common law as decided by U.S. courts, and we said that in diversity cases, that is cases which get into Federal court because we have as parties citizens of two different States, the law presently under the decision in Erie Railroad versus Tompkins is that the State law governs on privileges, and we leave it there.

Mr. Speaker, to answer the question of my friend from Iowa (Mr. GROSS), I admit it is one which I never thought of before but as far as the Committee on the Judiciary is concerned, we do not intend to offer any amendments as a committee, so that is really a moot question.

I think one could make a pretty good argument that what that means is that only the amendment just as offered by the committee could be considered, in spite of what the gentleman from Missouri (Mr. BOLLING) said; but we are not going to offer any, as a committee, so there is no problem there.

Germane amendments printed in the RECORD are the other amendments which can be offered. My personal opinion, for what it is worth is, that if a Member prints a germane amendment in the RECORD, an amendment could be offered to that amendment just as to any other amendment which is in order, but it would have to be confined to that amendment which is printed in the RECORD.

However, what we are basically doing is having an open rule except for this section 5, but if a Member wants to amend the bill, he has got to put his amendment in the RECORD ahead of time. We will give plenty of time to do that. It is a good rule, an innovative rule, and it should be adopted.

Mr. DEL CLAWSON. Mr. Speaker, I yield 7 minutes to the gentleman from Iowa (Mr. GROSS).

Mr. GROSS. Mr. Speaker, I thank the gentleman from California for yielding me this time.

Mr. Speaker, in my colloquy with the two gentlemen from Missouri (Mr. BOLLING and Mr. HUNGATE) it was not my purpose to establish the intent of the rule. My questions were to the subject of whether, under this proviso in the bill, an amendment or amendments offered by the Committee on the Judiciary would be subject to amendment.

The colloquy developed, as I understood it, that such amendments would be subject to amendment, either pro forma or perfecting amendments.

The gentleman from Indiana (Mr. DENNIS) says that it is a moot question because the Committee on the Judiciary has no intention of offering an amendment. If that is true, why is the provision in the bill that permits the committee to offer amendments?

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

Mr. GROSS. I yield to the gentleman from Missouri.

Mr. BOLLING. Mr. Speaker, in defense of what the gentleman from Missouri said, I will answer that.

It is the normal safety valve, in case the committee finds there is some sort of disastrous oversight involved.

Mr. GROSS. Mr. Speaker, that is exactly the point. The Committee on the Judiciary is protected, but the rights of Members of the House are in question under this language.

Mr. HUNGATE. Mr. Speaker, will the gentleman yield further?

Mr. GROSS. I yield to the gentleman from Missouri.

Mr. HUNGATE. At the time the rule was sought originally—that was in November, if I recall correctly, or December—at that time the situation could have been such as the gentleman has stated. We are now at the point where we are ready to go forward with this bill. The amendment would have to be printed in the RECORD in advance by Monday—the gentleman will correct me if I am wrong—because the Committee on the Judiciary requires 24 hours' or 48 hours' notice to hold a hearing on amendments of this kind.

Mr. GROSS. Mr. Speaker, then why is the language in the rule? Is it for the purpose of camouflage or window dressing? Does the Committee on the Judiciary have power to offer amendments?

I am just another Member of the House of Representatives. I do not know what the gentleman is going to do, and no one else does, outside the Committee on the Judiciary. I doubt if the Judiciary Committee itself knows at this moment what might or might not be done.

Mr. HUNGATE. Mr. Speaker, if the gentleman will yield further, I will explain it.

Mr. GROSS. I will yield to the gentleman.

Mr. HUNGATE. Mr. Speaker, as I tried to indicate, when this was done back in

December, there was no way to know. The Committee on the Judiciary might have had several amendments before it then, at the time the bill came before it. We have had meetings since that time. No such amendment has been discussed.

As I am telling the gentleman, the notice which is within the Committee on the Judiciary itself makes it impossible or practically impossible for that to happen. I think I can assure the gentleman of that.

Mr. Speaker, let me put it in another way. As the gentleman from Missouri (Mr. BOLLING) so aptly stated, this is a different sort of a rule, and in handling something of this nature, I think it is necessary and important to consider the intent as the words are used.

Mr. GROSS. Mr. Speaker, in my time in the House of Representatives I do not recall a resolution from the Committee on Rules making in order the consideration of a bill in this way. I do not recall a resolution that is on all fours with this one. This is a unique rule.

Moreover, I know of no reason why we should have such a rule. Other committees deal with legislation to which they have given long and tedious attention, but they do not get a rule foreclosing amendments to any one chapter or article of the bill. I know of no reason why under these circumstances the House ought not to work its will and work its will completely on this bill.

Therefore, Mr. Speaker, I certainly will vote against the rule, regardless of what any other Member does, because I think it is a very bad rule.

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

Mr. GROSS. I will yield to the gentleman from Indiana.

Mr. DENNIS. Mr. Speaker, I thank the gentleman for yielding.

I am really sorry to have my good friend, the gentleman from Iowa, feel this way. This is a rule which is really innovative, and it is a good kind of a rule. The gentleman ought to be for it. The gentleman and I are both opposed to closed rules, and here, instead of closing the rule, which easily could have been done, if one is for that kind of thing, we have opened it up and given a chance to every Member to put his amendments in, if the Members will just put them in the RECORD ahead of time, which is easy to do under the circumstances.

The thing we are talking about is really moot. I do not know why this business that the gentleman objects to regarding the Committee on the Judiciary is in here. I did not write this rule, but I would just as soon that we would leave it out. There is not any amendment to be offered by the Committee on the Judiciary.

Mr. BROWN of Michigan. Will the gentleman yield to me?

Mr. GROSS. I yield to the gentleman.

Mr. BROWN of Michigan. The gentleman from Indiana is on the committee and I am not, but may I suggest to the gentleman from Iowa that probably the reason this provision is in the rule is to assure that if amendments are adopted which do damage to the bill, the committee would have an opportunity to offer an amendment which it otherwise could not do without this language.

Mr. DENNIS. There may be a good reason for it, as the gentleman says, but as far as I am concerned I think we can get along without it. We are arguing about a point here which is not really the point.

Mr. BOLLING. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER. The question is on the resolution.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. GROSS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 386, nays 18, present 1, not voting 25, as follows:

[Roll No. 11]

YEAS—386

Abdnor	Cohen	Grasso
Abzug	Collier	Green, Oreg.
Adams	Collins, Ill.	Green, Pa.
Addabbo	Collins, Tex.	Griffiths
Alexander	Conable	Grover
Anderson, Ill.	Conlan	Gubser
Andrews, N.C.	Conte	Gude
Andrews, N. Dak.	Conyers	Gunter
Annunzio	Corman	Guyer
Archer	Cotter	Haley
Arends	Coughlin	Hamilton
Armstrong	Cronin	Hammer-schmidt
Ashley	Culver	Hanley
Badillo	Daniel, Dan	Hanrahan
Baker	Daniel, Robert W., Jr.	Hansen, Idaho
Barrett	Daniels, Dominick V.	Harrington
Bauman	Danielson	Harsha
Beard	Davis, Ga.	Harvey
Bell	Davis, S.C.	Hastings
Bennett	Davis, Wis.	Hawkins
Bergland	de la Garza	Hays
Bevill	Delaney	Hébert
Biaggi	Dellenback	Hechler, W. Va.
Biester	Dellums	Heckler, Mass.
Bingham	Denholm	Heinz
Blackburn	Dennis	Helstoski
Blatnik	Dent	Hicks
Boggs	Derwinski	Hillis
Boland	Devine	Hinshaw
Bolling	Dickinson	Hogan
Bowen	Dingell	Holifield
Brademas	Donohue	Holt
Brasco	Dorn	Holtzman
Bray	Downing	Horton
Breaux	Drinan	Hosmer
Breckinridge	Duncan	Howard
Brinkley	du Pont	Hudnut
Brooks	Eckhardt	Hungate
Broomfield	Edwards, Ala.	Hunt
Brotzman	Eilberg	Hutchinson
Brown, Calif.	Erlenborn	Jarman
Brown, Mich.	Eshleman	Johnson, Calif.
Brown, Ohio	Evans, Colo.	Johnson, Colo.
Broyhill, N.C.	Evins, Tenn.	Johnson, Pa.
Broyhill, Va.	Fascell	Jones, Ala.
Buchanan	Findley	Jones, N.C.
Burgener	Fish	Jones, Okla.
Burke, Calif.	Fisher	Jones, Tenn.
Burke, Fla.	Flood	Jordan
Burke, Mass.	Flowers	Karth
Burleson, Tex.	Foley	Kastenmeier
Burlison, Mo.	Ford	Kazen
Burton	Forsythe	Kemp
Butler	Fountain	Ketchum
Byron	Fraser	King
Camp	Frelinghuysen	Kluczynski
Carney, Ohio	Frey	Koch
Carter	Froehlich	Kuykendall
Cederberg	Fulton	Kyros
Chamberlain	Fuqua	Latta
Chappell	Gaydos	Lehman
Chisholm	Giaimo	Lent
Clancy	Gibbons	Litton
Clark	Gilman	Long, La.
Clausen, Don H.	Ginn	Long, Md.
Clawson, Del	Goldwater	Lott
Cleveland	Gonzalez	Lujan
Cochran	Goodling	McClory
McCloskey	Pickle	Stanton, James V.
McCollister	Pike	Steed
McCormack	Poage	Steele
McDade	Podell	Steelman
McEwen	Powell, Ohio	Steiger, Ariz.
McFall	Preyer	Steiger, Wis.
McKay	Price, Ill.	Stephens
McKinney	Price, Tex.	Stokes
McSpadden	Pritchard	Stratton
Macdonald	Quie	Stubblefield
Madden	Quillen	Stuckey
Madigan	Railsback	Studds
Mahon	Randall	Sullivan
Mailliard	Rangel	Symington
Mallary	Rees	Talcott
Mann	Regula	Taylor, N.C.
Maraziti	Reid	Teague
Martin, Nebr.	Reuss	Thompson, N.J.
Martin, N.C.	Rhodes	Thomson, Wis.
Mathias, Calif.	Riegle	Thone
Mathis, Ga.	Rinaldo	Thornton
Matsunaga	Roberts	Tiernan
Mayne	Robinson, Va.	Towell, Nev.
Mazzoli	Robison, N.Y.	Treen
Meeds	Rodino	Udall
Melcher	Roe	Ullman
Metcalfe	Rogers	Van Deerlin
Mezvinsky	Rooney, Pa.	Vander Jagt
Michel	Rose	Vanik
Miller	Rosenthal	Veysey
Minish	Rostenkowski	Vigorito
Mitchell, Md.	Roush	Waggonner
Mitchell, N.Y.	Rousselot	Waldie
Mizell	Roy	Wampler
Moakley	Roybal	Ware
Mollohan	Runnels	Whalen
Montgomery	Ruppe	White
Moorhead, Calif.	Ruth	Whitehurst
Moorhead, Pa.	Ryan	Whitten
Morgan	St Germain	Widnall
Mosher	Sandman	Wiggins
Moss	Sarasin	Williams
Murphy, Ill.	Sarbanes	Wilson, Bob
Murphy, N.Y.	Satterfield	Wilson, Charles H., Calif.
Myers	Scherle	Wilson, Charles, Tex.
Natcher	Schneebeli	Wolff
Nedzi	Schroeder	Wyatt
Nelsen	Sebelius	Wydler
Nichols	Seiberling	Wyman
Nix	Shipley	Yates
Obey	Shoup	Yatron
O'Brien	Shriver	Young, Alaska
O'Hara	Shuster	Young, Ga.
O'Neill	Sikes	Young, S.C.
Owens	Sisk	Young, Tex.
Parris	Slack	Zablocki
Passman	Smith, Iowa	Zion
Patman	Smith, N.Y.	Zwach
Patten	Spence	
Pepper	Staggers	
Perkins	Stanton, J. William	
Pettis		
Peyser		

NAYS—18

Anderson, Calif.	Frenzel	Snyder
Ashbrook	Gross	Symms
Bafalis	Huber	Taylor, Mo.
Crane	Landgrebe	Wylie
Dulski	Mink	Young, Fla.
Flynt	Rarick	
	Roncallo, N.Y.	

ANSWERED "PRESENT"—1

Diggs

NOT VOTING—25

Aspin	Hansen, Wash.	Rooney, N.Y.
Carey, N.Y.	Henderson	Skubitz
Casey, Tex.	Ichord	Stark
Clay	Landrum	Walsh
Edwards, Calif.	Leggett	Winn
Esch	Milford	Wright
Gettys	Mills	Young, Ill.
Gray	Minshall, Ohio	
Hanna	Roncalio, Wyo.	

So the resolution was agreed to.

The Clerk announced the following pairs:

Mr. Rooney of New York with Mr. Wright.
Mr. Gray with Mr. Edwards of California.
Mr. Carey of New York with Mr. Winn.
Mr. Henderson with Mr. Skubitz.
Mrs. Hansen of Washington with Mr. Roncallo of New York.
Mr. Casey of Texas with Mr. Esch.
Mr. Clay with Mr. Aspin.
Mr. Gettys with Mr. Minshall of Ohio.
Mr. Hanna with Mr. Walsh.
Mr. Ichord with Mr. Landrum.
Mr. Leggett with Mr. Mills.
Mr. Stark with Mr. Milford.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. HUNGATE. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 5463) to establish rules of evidence for certain courts and proceedings.

The SPEAKER. The question is on the motion offered by the gentleman from Missouri.

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 5463, with Mr. STEED in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from Missouri (Mr. HUNGATE) will be recognized for 2 hours and the gentleman from New York (Mr. SMITH) will be recognized for 2 hours.

The Chair recognizes the gentleman from Missouri (Mr. HUNGATE).

Mr. HUNGATE. Mr. Chairman, I yield to the gentleman from New Jersey (Mr. RODINO) such time as he may consume.

Mr. RODINO. Mr. Chairman, we are at this moment embarking on what I consider to be the consideration of milestone legislation in the improvement of the Federal judicial system. I would like to point out that the Subcommittee on Criminal Justice of the Committee on the Judiciary, which has worked assiduously, diligently, and long, on this very, very momentous piece of legislation has ably discharged its responsibility and has come up with a piece of work which I believe we as members of the Judiciary can well be proud of and which the Congress of the United States can wholeheartedly endorse.

I believe it is well, Mr. Chairman, to recognize that this work is the culmination of some 13 years of intensive effort, which started first in the judicial branch and was then continued in the legislative, to try to put together rules of evidence which might be understandable and intelligible and which would serve the purpose of all who are involved in the processes of our judicial system—judges, lawyers, witnesses, litigants, and jurors.

I believe that it is to the everlasting credit of the distinguished chairman of the subcommittee, BILL HUNGATE of Missouri, together with the ranking minority Member, Mr. HENRY SMITH of New York, who were able to work in a bipartisan, actually a nonpartisan spirit, knowing that the law could only be nonpartisan.

You will be interested to know that despite the complexity of the project and the highly controversial nature of many of the rules of evidence, the work of the subcommittee was extremely well received. The American College of Trial Lawyers noted that it "approves thoroughly." A special committee of 30 noted New York trial lawyers reported that the rules were "an outstanding piece of legal work." From the office of the attorney general of the State of Wisconsin we were advised:

> The balance the committee has arrived at is a most reasonable balance between the rather clear interest of the individual states and the interest of the Federal courts in having some formalized rules of evidence to guide their decision.

Even Chief Judge Friendly, of the Second Circuit Court of Appeals, who does not believe a uniform code is desirable, wrote:

> If there are to be Federal rules of evidence, I do not see how there could be much better ones than your subcommittee has proposed.

Mr. Chairman, I know that the committee has presented to the House of Representatives a piece of work which I believe will commend itself to the Members. I urge that it be supported wholeheartedly so that we may do away with a great deal of the confusion that now exists in the application, often inconsistent and conflicting, or rules of evidence in our Federal courts.

Mr. HUNGATE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the question of what is the law is one that A. P. Herbert noted frequently arises in courts and sometimes receives a satisfactory answer. It is in the interests of seeing our percentage becoming somewhat better and improving justice with better procedures in our courts that we bring these rules of evidence to the House.

Some of the reasons that have been set forth by groups that have been working on the problem of rules of evidence for a period, as the chairman indicated, of 13 years or more, are these five:

Evidence frequently calls for a decision on the run when the judge is trying a case and he must act right now. This makes it handier or could be handier with a code of evidence that he could turn to for guidance.

Second, the existing law of evidence is quite complex. We have been informed that of 6 million recorded cases, about one-fourth of them relate to the question of evidence. There are uncertainties in the law of evidence and variations by circuit courts that these rules would seek to extinguish and to clarify evidentiary rules.

Also, making evidence law by decision is sometimes an accidental and a fragmental process, because a lawyer is not hired by his client to change the law of evidence. A matter comes up and it may seem not of too great importance at the time, but someone has said that the rules of evidence grow like an inverted pyramid. The case is decided hurriedly and later on through the years it comes up again and further cases are built upon it until it is bearing much greater weight than the initial consideration and study given to it would seem to call for.

Sometimes these precedents, we can see, are a misleading measure of experience and value of the original decision.

As transmitted to the committee, the proposed code consisted of 77 rules of evidence.

Many of them have numerous subparts. Together with the explanatory notes, these rules of evidence comprise 168 printed pages.

Recognizing the unresolved question as to the authority of the Supreme Court to promulgate rules of evidence under existing rules and enabling statutes; recognizing further the enormity and importance of the task, Congress enacted Public Law 93–12, which deferred the effectiveness of these rules until such time as expressly approved by the Congress; an expression by the Congress, if you will, of its desire to work its will in this field.

In the House, the legislation which ultimately became Public Law 93–12 was approved by a margin of 399 to 1. Two days after receipt of the rules, we began intensive study of their impact both in and out of the courtroom.

Mr. Chairman, I might say at the time the rules were sent over here and the legislation was proposed that their effective date be postponed until Congress could work its will, it was suggested in some quarters that this was just another way to walk it to death, kill the rules, kill them by delay. The committee gave assurance that this was not our purpose, and we went forward with hearings as soon as possible. We had 6 days of hearings in February and March of last year, and compiled a hearing record of some 600 pages.

These rules of evidence were of interest not only to those in the legal profession, but to persons and organizations in other disciplines who would be affected by them. For example, among others in addition to lawyers and judges, there were physicians, the press, social workers, psychologists and several other organizations.

By June 28, our subcommittee had met 17 times to review the voluminous testimony and written material submitted to the committee. We developed a committee print of H.R. 5463 containing the tentative recommendations. The committee print was sent to the bar association of each of the 50 States and of the District of Columbia. It was sent to the Justices of the Supreme Court, the Judicial Conference and to all other individuals and organizations of whose interest the subcommittee was aware.

I might say at that point there were two chief criticisms the committee heard of the proposed rules. First, in the field of privileges, and we have indicated in the debate on the rule that we leave the law of privileges as we find it, and that part is closed. We make no change in that very contentious area. The other criticism of the largest volume was because of the failure to have an opportunity to consider them, to see the rules and know what they were. That is why I say we circulated them to all of the bar associations and to those who were interested, and published them in the CONGRESSIONAL RECORD I believe last June for the first time, so that it might receive wider distribution and come to the attention of the 535 elected representatives of the people, and through them to their constituents.

This draft was reprinted in the U.S. Law Week, Criminal Law Reporter, United States Code, Congressional and Administrative News. During the summer, approximately 90 individuals and

organizations commented to the subcommittee on the committee print. By and large, a uniform code was supported and the work of the subcommittee was, in general, well received. Certain constructive recommendations were made for further study and further rule changes.

In September and October, the subcommittee met and reviewed these recommendations in five additional markup sessions. This brought about further modifications and a second committee print dated October 10, 1973, contained *sub*committee recommendations.

This draft was considered by the full House Committee on the Judiciary in three meetings. On November 15, they reported out H.R. 5463, and after full discussion the three different days, three additional amendments were adopted.

Mr. Chairman, I think the close scrutiny and study brought to the rules of this body, and it should be pointed out that more than 50 percent of the rules are substantively unchanged, from how they were transmitted to the Congress, is a tribute to the many people in and out of government who participated in developing these rules throughout the year or so in the course of the hearings and deliberations. A number of general issues and questions were raised, first as to whether rules of evidence, rules of practice and procedure are within the coverage of the enabling act. In other words, are rules of evidence substantive?

A derivative question would be: Does the Supreme Court have inherent authority to promulgate rules of evidence?

The second question to which a number of witnesses addressed testimony is whether a code of evidence, as contrasted with case-by-case development, is desirable?

Is uniformity desirable? Is it better to have uniformity in Federal courts across the country or uniformity between Federal and State courts in the State in which they sit?

On the issue of uniformity, it is pointed out that Federal judges are very mobile; they travel from circuit to circuit, and it certainly makes this more uniform and improves the administration of justice if the same rules of evidence are followed in their own courtrooms as are followed when they move around the country and hear other cases.

They would not be delayed studying a different construction of rules of evidence.

Mr. Chairman, it was also pointed out by witnesses to the committee that members of the bar itself and many attorneys travel around, and this would facilitate their practice and enable them to give more time to other issues of their cases, with evidentiary questions settled.

They discussed this green book. This is the "green book" approach. This model was furnished to the committee, and that is furnished so that the youngest law student or any man from any part of the country would have at his fingertips in one place a codification of the Rules of Evidence as they are to be applied in Federal courts.

We studied this long. This was a committee of 15 members in the Judicial Conference on the Rules of Evidence, and this consisted of nine trial lawyers, three Federal judges, and three law school professors. They made certain policy decisions, and I believe the committee followed those.

First, constitutional issues were avoided as far as possible.

Second, they examined the Rules of Evidence on their merits.

Third, to the fullest extent possible, there was an attempt to provide the same rules in criminal and civil cases.

Among witnesses previously alluded to, we have heard from the former Supreme Court Justice, Arthur Goldberg; Chief Judge Henry Friendly of the U.S. Court of Appeals, Second Circuit; the Honorable Robert W. Warren, attorney general of the State of Wisconsin; Judge Albert B. Maris, of the U.S. Court of Appeals, Third Circuit; Mr. Donald E. Santarelli, who was the Associate Deputy Attorney General for the Department of Justice, and now LEAA Administrator; we heard from representatives of the American College of Trial Lawyers, the American Trial Lawyers Association, and various aspects of the medical profession, the press, the National Conference of Commissioners on Uniform State Laws, Federal Defenders, Members of Congress, law professors, and the like.

Now, Mr. Chairman, I will say to my fellow members that we think we have brought to the members a document that will improve the administration of justice in our courts, that will make it more uniform and expedite its administration throughout the country.

We are concerned. We have taken 4 hours in which to debate this matter, although I would not contemplate that the committee would use all that time. However, we have taken the time so that those members who are not on the committee and other interested members may have every opportunity to explore questions which have been raised in their minds by these rules of evidence. As we have indicated earlier, amendments may be offered through Monday of next week by placing them in the RECORD.

Mr. Chairman, this is a highly technical matter, as we see it and as we have worked on it. And yet at the same time we want to make the opportunity available, insofar as possible, for any member to offer his suggestions and make his imprint and offer amendments to this bill, at the same time retaining the opportunity to respond responsibly to those amendments.

Mr. Chairman, I could not conclude without paying a special tribute to the members of the subcommittee and without mentioning the devotion and dedication they brought to this job.

The ranking Republican member, the gentleman from New York (Mr. SMITH), spent many hours and was a very helpful force in studying the difficult problems confronting us and molding this bill during our task of drafting the rules of evidence.

On the Democratic side, if I tell you who the members of the subcommittee were, you will find that virtually every shade of opinion and viewpoint had its representation in the working out of these rules.

To a large degree I think we are in agreement that there was a general consensus on the final product.

The gentleman from Wisconsin (Mr. KASTENMEIER), served as the ranking Democrat on the committee. He, too, put in a considerable number of hours in time and study and brought a different point of view to bear on the problems with which we dealt.

The gentleman from California (Mr. EDWARDS), a former FBI agent and a former ADA president, also spent a considerable amount of time on this.

We had different viewpoints expressed on the rules which were all helpful.

The gentlewoman from New York (Ms. HOLTZMAN) gave meticulous attention to the problems posed by the rules and to the questions to which we should address ourselves. She offered many helpful amendments in the subcommittee. She might not be satisfied with the final product, because I do not think she thought we needed new rules of evidence. That is a perfectly acceptable view, as some judges have.

The committee after this study has determined that it would be helpful to have these rules.

The gentleman from South Carolina (Mr. MANN) contributed much to our deliberations. He approached this, as he did other matters, in a very judicial and judicious manner. He enabled us to resolve many difficult points satisfactorily.

The gentleman from Indiana (Mr. DENNIS) possibly the most thorough student of the rules of evidence, at least in the opinion of some of us, brought a great deal of provocative thought to the inquiry into these regions.

I want to say that I have pointed out different people with different viewpoints and philosophies, and as I continue through the committee you will see that throughout all of this a great effort was made on behalf of the subcommittee and on behalf of the full committee to see that this subject was approached in a bipartisan and, better yet, in a nonpartisan way, because if there is one thing that we do not wish to do we do not wish to politicize our courts. This is kept in mind in the committee's work.

The gentleman from Maryland (Mr. HOGAN), a diligent worker on this project, a former FBI man who has his own views, will offer an amendment, I am sure, to certain of these rules.

The committee had some close votes on these questions. These are not issues where anybody is way off on one side. We have 5 to 4 and 4 to 4 votes. These are not easy questions and are not easily resolved. We found some of the same questions went through the advisory committee composed of 15 members on 8 to 7 votes.

Mr. Chairman, we devoted this time and effort to make these rules as equitable as possible and to see that all points of view were brought to bear on them.

The gentleman from Iowa (Mr. MAYNE), an outstanding member of the American Bar Association, has been active as a trial attorney. He is a man who, I would say, certainly brought that viewpoint as well as other helpful suggestions to the committee's work.

Mr. Chairman, I have mentioned these gentlemen because you are familiar with your colleagues in the House and you will see that this is not a liberal or a conservative work but, rather, is an attempt to do an honest piece of legal craftsmanship and one which will serve the public well as we search for justice in our courts.

Mr. Chairman, I would recommend this bill for your support.

I reserve the balance of my time and now yield to the gentleman from New York.

Mr. SMITH of New York. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise of course, in strong support of this legislation. I would like, though, to pay tribute to the gentleman from Missouri (Mr. HUNGATE), who is the chairman of this subcommittee, and to all of the members of the subcommittee who worked so many long hours in such good spirit. The gentleman from Missouri (Mr. HUNGATE) was the ramrod who kept our noses to the grindstone.

As the gentleman from Missouri (Mr. HUNGATE) has said, we had 6 days of hearings and 22 days of markup, and 3 days before the full committee, the whole taking about 9 months of time. It was indeed a difficult job, but a very rewarding job, I think, to all of us who participated in this exercise in trying to get down some rules of evidence that would be acceptable to the majority of persons, the majority of lawyers and the majority of litigants.

I would also like to pay tribute to our counsel, Herbert Hoffman on the majority side and Roger Pauley on the minority side, both of whom did such a fine job giving us the technical details as to what the present law is, what the proposals were, how the proposals differed from the present law, and what the trend of the law was. Our counsel are particularly to be commended, as well as the other aides whom we had before our subcommittee, and the other people, both from the Department of Justice and from the staff, who did a magnificent job of helping us in this difficult and technical area.

Mr. Chairman, the purpose of the Federal rules of evidence bill, as stated in rule 102, is to "secure fairness in administration, elimination of unjustifiable expense and delay, and promotion of growth and development of the law of evidence to the end that the truth may be ascertained and proceedings justly determined." Although these are lofty goals perhaps never completely attainable, this bill in my estimation will help to promote each of them and will improve the quality of our system of justice.

As the distinguished chairman of the subcommittee (Mr. HUNGATE) has noted, the Federal rules of evidence have been more than 12 years in the creation. Most of that time was devoted to the process of repeated drafting and redrafting of the rules by eminent lawyers, judges, and scholars within the Judicial Conference of the United States. Thereafter, when the Judicial Conference completed its work and transmitted the rules to Congress, the Subcommittee on Criminal Justice, on which I sit, spent approximately 9 months reviewing the rules, debating alternative formulations, circulating our tentative recommendations to the public for comment, and finally recommending to the full committee that the rules, as amended in certain particulars, be favorably reported to the House. The full Judiciary Committee, after further extensive consideration, overwhelmingly ordered the bill favorably reported on a voice vote.

As a result of this lengthy gestation period, the Federal rules of evidence as they reach this House have been subjected to the most careful scrutiny by distinguished persons of differing philosophies and backgrounds. Many of the rules represent choices among competing policies, and of course, to that extent, cannot be deemed absolutely correct or incorrect statements of the law, in the same way as one can characerize the solution to a problem in mathematics. On the contrary, there is room for disagreement among reasonable men and women as to the wisest formulation of almost every rule. In the course of the subsequent debate on these rules I have no doubt that amendments will be offered, including one by myself, which will permit the House to choose between contending reasonable positions. But, even though I do not regard these rules as perfect, I am convinced that the process of development which they have undergone has insured that in no instance is there a rule which is irrational or indefensible, and that as a whole the Federal rules of evidence constitutes a notable meeting of the minds within the legal community which will do much to expedite and enhance the conduct of trials in the Federal courts. Mr. Chairman, I urge their prompt enactment.

Mr. HUTCHINSON. Mr. Chairman, will the gentleman yield?

Mr. SMITH of New York. I yield to the gentleman from Michigan, the eminent ranking minority member of the Committee on the Judiciary.

Mr. HUTCHINSON. I thank the gentleman for yielding.

I simply wanted to take the opportunity at this point to state my support for this legislation, but I should like to make an observation and ask for a response from the gentleman. Up until this time the rules of evidence have not been reduced to statutory form; is that true? We never before had written them into statute?

Mr. SMITH of New York. This is correct as far as the Federal courts are concerned.

Mr. HUTCHINSON. Yes. We are talking about the Federal rules of evidence all the way along here. Up until this time the Federal rules of evidence have evolved out of court decisions and the rules of evidence have varied from circuit to circuit within the country; is that correct?

Mr. SMITH of New York. That is correct.

Mr. HUTCHINSON. The purpose of this bill is to provide a uniformity within the Federal rules of evidence so that the same rules of evidence will apply uniformly throughout all of the circuits; is that correct?

Mr. SMITH of New York. Throughout all of the circuits and all over the United States.

Mr. HUTCHINSON. There is one problem that occurs to me. Since in the past the rules of evidence have evolved and changed over a period of time, I want to inquire as to what the effect of putting them into statutory form wil be. Will this effectively freeze them so that there can be no changes in the rules of evidence henceforth except by coming back to Congress and asking Congress to amend the statute?

Mr. SMITH of New York. As I understand the gentleman, the bill provides that the Supreme Court may from time to time recommend to the Congress changes in the rules of evidence or perhaps proposals for rules of evidence in areas which we do not now perceive, and that those new or amended rules of evidence shall become part of the codified rules after 180 days, if I remember correctly, from submission to the Congress, unless they are vetoed by either House within that time. We have tried to provide for the growth and expansion of the law of evidence but with some check on it so that the Congress can look at it and make a decision.

Mr. HUTCHINSON. I thank the gentleman. Let me put one more question. Will it be possible henceforth for there to be additional rules of evidence, that is, that there will continue to grow within each of the several circuits some additional evidentiary rules which might not be codified and which might not be submitted to the Supreme Court, and there will perhaps be in the future some evidentiary rules which will not be uniform throughout the country because they will grow up differently in the various circuits?

Mr. SMITH of New York. I think the gentleman is correct in that statement and I can foresee, for instance, in areas in which the codified rules of evidence may not cover, that there, as the new question occurs in a court, the judge of that court will make a rule to cover the occurrence and to cover the admission or nonadmission of that evidence in that particular court and that particular case. I suppose to that extent the law of evidence will grow in that way. It will be as it has been in the past, those rules have been subject to review by superior courts and finally will become to be the accepted and uniform rule at least to the extent the Supreme Court makes a final determination for the whole country. Otherwise, there may be some different rules in some different courts in regard to those positions which may not have been covered by the present law.

Mr. HUTCHINSON. But so far as the codification itself is concerned it would not be possible legally for a judge in any court to provide a rule of evidence at variance with this modification. So far as the codification reaches, it will be uniform throughout the country.

Mr. SMITH of New York. I would say to the gentleman that is correct. In many of the rules that we have proposed, the judges have a certain amount of discretion as to whether to allow evidence in or out depending upon the cases as outlined in the codified rule.

It would be my answer that a judge would not be able to hold adversely to the codified rules of evidence and that the only way those could be changed would be through further legislation. In the event that some rule turns out in practice to be one that reasonable people would agree ought to be changed, it would be subject to further legislation for amendment.

Mr. HUTCHINSON. I thank the gentleman very much for his responses.

Mr. HOGAN. Mr. Chairman, I would like to take this opportunity to commend the gentleman in the well and the chairman of the subcommittee. Of all of the activities I have been engaged in since I have been a Member of Congress, this work on the revised rules of evidence has required a greatest expenditure of time and effort. However, all matters were handled in the fairest, most cooperative, and most judicious way of any congressional activity that I have been associated with.

Mr. Chairman, I will probably support various amendments to the committee bill, but at this time I would like to focus the attention of my colleagues to rule 609, impeachment of the credibility of a witness by evidence of conviction of a crime.

My objection to the committee's version extends not only to the fact that the rule as drafted by the Judiciary Committee rejects the version of the rule recommended by the Advisory Committee on Rules of Evidence of the Judicial Conference of the United States, but also it abrogates the prevailing view in the Federal and State courts. I object even more to the Judiciary Committee's clear disavowal of the congressional mandate expressed as recently as 1970 on the principle underlying this rule.

I offered an amendment before the subcommittee and full committee to restore the version of the rule recommended by the Advisory Committee on the Rules of Evidence of the Judicial Conference of the United States. I believe it important to look at the policy behind the formulations and reformulations which this impeachment rule has undergone throughout the course of consideration of these proposed Federal rules. There is set forth below the precise language of each of these formulations:

March 1969 Draft: Rule 609(a) General Rule. For the purpose of attacking the credibility of a witness, evidence that he has been convicted of a crime is admissible but only if the crime, (1) was punishable by death or imprisonment in excess of one year under the law under which he was convicted, or (2) involved dishonesty or false statement regardless of the punishment.

March 1971 Draft: Rule 609(a) General Rule. For the purpose of attacking the credibility of a witness, evidence that he has been convicted of a crime, except on a plea of *nolo contendere*, is admissible but only if the crime (1) was punishable by death or imprisonment in excess of one year under the law under which he was convicted or (2) involved dishonesty or false statement regardless of the punishment, unless (3), in either case, the judge determines that the probative value of the evidence of the crime is substantially outweighed by the danger of unfair prejudice.

December 1972 Draft: Identical with March 1969 Draft.

Subcommittee Draft: Rule 609(a) General Rule. For the purpose of attacking the credibility of a witness, evidence that he has been convicted of a crime is admissible only if the crime (1) was punishable by death or imprisonment in excess of one year, unless the court determines that the danger of unfair prejudice outweighs the probative value of the evidence of the conviction, or (2) involved dishonesty or false statement.

Judiciary Committee Draft: Rule 609(a) General Rule. For the purpose of attacking the credibility of a witness, evidence that he has been convicted of a crime is admissible only if the crime involved dishonesty or false statement.

The conventional and majority judicial view of the impeachment rule has been that an accused who elects to take the stand is subject to impeachment as any other witnesses, including impeachment by proof of conviction. The raging debate over impeachment of the accused's credibility by conviction of crime exemplifies the continual attempt by all involved with the judicial system to balance the scales of justice between the rights of the individual and the rights of society.

It is for this very reason that the draftsmen of the March 1969 draft of the proposed rules specifically undertook to study and evaluate every formulation of the impeachment rule brought to their attention. Reduced to their essentials, these included the following six alternatives:

(1) Allow *no* impeachment by conviction when the witness is the accused.

(2) Allow only *crimen falsi*.

(3) Exclude if the crime is similar.

(4) Allow conviction evidence only if the accused first introduces evidence of character for truthfulness.

(5) Leave the matter to the discretion of the trial judge.

(6) Allow impeachment by conviction when the witness is the accused—the traditional and majority rule among the State and Federal Courts.

After giving consideration to each of these six proposals, and concluding that each was only a partial solution or, at the least, no clear improvement, the Advisory Committee chose to promulgate the sixth possibility, thereby retaining the rule of the overwhelming majority of Federal and State courts as well as the views unhesitatingly exposed by Dean Wigmore, renowned expert on evidence. See 3 Wigmore, section 889–891. This formulation adopts the prevailing prosecutorial view that it would be misleading to permit the accused to appear as a witness of blameless life on those occasions when the accused chooses to take the stand.

The first alternative above, that of excluding all convictions of the accused for impeachment purposes, has been given short shrift because there is little dissent from the proposition that at least some crimes are relevant to credibility. See McCormick § 43 (2nd ed. (1972); 2 Wright, *Federal Practice and Procedure:* Criminal § 416 (1969).

In the second draft disseminated in March 1971, the Advisory Committee on the Rules of Evidence, totally without explanation, reversed its earlier position adopting the majority rule of Courts throughout the country and instead adopted the fifth alternative above. In effect, this was a particularized application of the Luck rule, expounded by the U.S. Court of Appeals for the District of Columbia in *Luck* v. *U.S.*, (121 U.S. App. D.C. 151, 348 F.2d 763) in 1965. The most significant feature of the rule is the requirement that the evidence of conviction be excluded if the judge determines that its probative value is outweighed by the danger of unfair prejudice. In July 1969, the Congress specifically repudiated the Luck rule when it enacted the traditional rule as the impeachment rule to be followed in all criminal trials in the District of Columbia. The D.C. Court Reorganization and Criminal Procedure Act of 1970, incorporating the traditional impeachment rule, was approved by the House by a vote of 294 to 47.

The Advisory Committee took note of the 1969 congressional pronouncement on the impeachment question and returned to its original position in endorsing the traditional rule in the third and final version which was submitted to this Congress for our consideration and enactment in December 1972.

In spite of the fact that the eminent members of the bench and bar who made up the Advisory Committee on the Rules of Evidence made their position clear, the majority of the House Committee on the Judiciary rejected the majority rule in the State and Federal courts and have changed the rule once again. But with this change the dimensions of the rule are totally immeasurable either from a prosecutorial or from a defense viewpoint. The Judiciary Committee has seen fit not only to renounce the traditional rule which is that under which their fellow members of the bar labor in the majority of their Federal courts and in 90 percent of their State courts but the majority of the full Judiciary Committee has also defeated the compromise effected by the Subcommittee on Criminal Justice after many hours of arguing the merits and demerits of the various alternative formulations.

The rule which the majority has now settled upon is, of all the alternatives set out above, the most unsettling. Allowing only evidence of the crimen falsi to impeach the credibility of the accused adopts only the worst feature of the Luck rule, that is, unpredictability, without bestowing upon the bench and bar any useful new tool for coping with the evidentiary problem which is at the heart of this debate.

When the draftsmen of the Advisory Committee on the Rules of Evidence originally rejected the crimen falsi alternative for rule 609, they did so because most of the crimes regarded as having a substantial impeaching effort would be excluded, resulting in virtually the same effect as if the alternative allowing no prior convictions for impeachment purposes were adopted.

In the commentaries to the first draft, the Advisory Committee on the Rules of Evidence noted:

While it may be argued that considerations of relevancy should limit provable convictions to those of crimes of untruthfulness, acts are constituted major crimes because they entail substantial injury to and disregard of the rights of other persons or the public. A demonstrated instance of willingness to engage in conduct in disregard of accepted patterns is translatable into willingness to give false testimony.

A further argument against adoption of the crimen falsi alternative, as noted above, is that of its unpredictability and its uneven application to criminal defendants across the board. One of the major objections to the Luck rule in the District of Columbia, and one of the major reasons that it has failed to be adopted in most of the other Federal circuit courts, is that the discretionary authority which Luck vests in the trial judge imposes another discriminatory element into an already overly criticized criminal justice system in this country.

Even more so is this true of the crimen falsi alternative. What, really, is dishonesty or false statement in judicial or legal terms? Unless one practices in a jurisdiction which has statutorily defined crimen falsi, the common law definition of "any crime which may injuriously affect the administration of justice, by the introduction of falsehood and fraud" is applicable. This definition has been held to include forgery, perjury, subornation of perjury, suppression of testimony by bribery, conspiracy to procure the absence of a witness or to accuse of crime, obtaining money under false pretenses, stealing, moral turpitude, shoplifting, intoxication, petit larceny, jury tampering, embezzlement and filing a false estate tax return. In other jurisdictions, some of these same offenses have been found not to fit the crimen falsi definition.

From the foregoing analyses undertaken by the eminent professors, jurists and lawyers of the Advisory Committee, as well as by my colleagues on the Committee on the Judiciary, I am convinced that the only viable alternative is that which has stood the test of time. If for no other reason than that the other considered alternatives are no improvement over the shortcomings of the traditional, I shall offer an amendment on the floor to reinstate the traditional, majority rule as promulgated by the Advisory Committee on the Rules of Evidence of the Judicial Conferences of the United States, and as it is known in the majority of our American courts. I am hopeful that this amendment will receive the support of the House as it did in 1970 when the crimen falsi alternative was specifically voted down in the D.C. Court Reorganization and Criminal Procedure Act of 1970

Mr. McCLORY. Mr. Chairman, I rise in support of H.R. 5463—or I join my colleagues in supporting this legislation. This bill is the very thoughtful work product of almost 8 years of labor by the Judicial Conference and the Supreme Court, and approximately 9 months of study by the Subcommittee on Criminal Justice. The actual work effort goes back to 1961 when an ad hoc committee created by the then Chief Justice Warren determined, in the face of criticism and confusion, that uniform rules of evidence for the Federal court system was both "advisable and feasible." Later the 16-member Advisory Committee on Rules of Evidence was appointed.

In 1968 preliminary recommendations on the Federal rules were issued by the Advisory Committee, and on the basis of public reaction, the revised rules were handed down in 1970. These revised rules were then carefully scrutinized by the U.S. Judicial Conference, which, in response, to even further public comments and criticism, revised the rules even more carefully. The Judicial Conference sent its final report to the Supreme Court in 1971.

I do not stress the labor expended by the various groups for its own sake, but to suggest that the length of time spent by these divergent groups of different philosophies should mitigate our concern about any hasty consideration of the Federal rules of evidence.

This long and thoughtful review has resulted in weeding out the bad and the extreme positions and has resulted in carefully drawn rules. On the whole I believe the rules that emerged will be very useful to both lawyers and litigants and will bring uniformity to all of the Federal courts of the Nation.

I should point out, however, that my sponsorship of this legislation does not indicate blanket endorsement of all of the rules. There are a few areas that I am sure all of us do not agree on. I would have preferred specific privileges instead of the general rule.

However, I want to state emphatically my general support of the outstanding work performed by the members of the Supreme Court, the Judicial Conference, and the American Bar Association's Special Committee on Federal Practice and Procedure.

While one may not agree with every provision of the bill, it is indeed an overall good group of rules and as such represents an advance in the law of evidence.

Mr. Speaker, in supporting H.R. 5463, it is my hope that the main body of these rules may be approved for the benefit of the Federal courts and the Federal judges and magistrates, as well as the attorneys who practice in our Federal courts.

Mr. HUNGATE. I yield to the gentlewoman from New York (Ms. HOLTZMAN) 15 minutes.

Ms. HOLTZMAN. Mr. Chairman, I hope I will not consume all of the 15 minutes, but I do want to make a few points about the rules of evidence.

Although I think the Subcommittee on Criminal Justice did an extraordinarily fine job and I was very proud to participate as a members of that subcommittee, I do not think these rules should be enacted into law.

At the present time, rules of evidence in Federal courts are not codified. Instead, the growth of our evidentiary law has been taking place over 100 years on a case-by-case basis. Codifying rules of evidence, therefore, marks a drastic departure from a centuries-old tradition. Before taking such a radical step, we ought to be sure that it is both necessary and wise.

In my view, there is no need to freeze principles of evidence into black letter law. As the former Chief Judge of the Second Circuit Court of Appeals, Henry Friendly, stated:

(T)here is no need for [the proposed Rules]. Someone once said that, in legal matters, when it is not necessary to do anything, it is necessary to do nothing. I find that a profoundly wise remark. We know we are now having almost no serious problems with respect to evidence; we cannot tell how many the Proposed Rules will bring.

Nowhere in the course of the subcommittee's examination of this matter was the need for changing our past practice clearly demonstrated. In fact, the subcommittee never specifically solicited comments from the bar as a whole on the need for a code of evidence. And, if lawyers and judges were asked this specific question, I am not sure that we would find great support for codification.

Not only was no compelling need to codify the rules shown, but the dangers of codification have become very apparent. Black letter rules will make evidentiary points high profile. Presently, evidentiary rulings are generally not considered critical at a trial. Once we adopt a "black letter" code, lawyers will have a field day determining how many evidentiary angels can dance on the top of a pin. The rules may thus generate appeals and increase reversals on evidentiary rulings.

Another thorny problem this codification will produce is forum shopping. Because this code substantially liberalizes the hearsay rules, Federal courts may become a more attractive forum for litigation. This is not, however, a time to increase the workload of the already congested Federal courts. Nor is there any substantial justification on a hearsay issue for a different outcome in a Federal court when State law is involved.

The basic problem, as I see it, is with the difficulty of codification itself. These rules are going to be used every day in every Federal court in the United States. Every word of these rules is going to be extremely important. Yet, despite the conscientious work of the committee, there are a number of rules which are not well drafted and which will have a harmful impact that none of us can foresee.

Let me give you an example. Rule 803–8(B), if it becomes law, will basically allow the reports of government personnel—State, Federal, city, and county—on matters they have observed in the course of their duty to become substantive evidence in criminal and civil cases without the right of cross-examination.

Thus, a social worker's report of a random observation of a marital relationship could be introduced in a criminal case against one of the spouses. Similarly, a policeman's report containing an observation of an alleged criminal offense could be used in the criminal trial instead of having the police officer himself testify. This represents an extraordinary departure from existing law. It gives more credibility to the observations of government employees than are given to observations of private citizens.

Because the subcommittee perceived this as a minor rule, and because we received no comments on it, we failed in our deliberations to appreciate its significance and it slipped through. Although the subcommittee did a very methodical and careful job, other "problem" rules may have slipped through, too.

There are also problems with rules concerning the admission of unfairly prejudicial evidence, rule 403; best evidence rule, article 10; use of an accused's testimony on preliminary mat-

ters, rule 104(d); statements in documents affecting an interest in property, rule 803(15); authenticity of commercial paper; rule 902(9), authenticity of handwriting; rule 901, hearsay use of telephone directories and similar publications, rule 803(17), and use of court appointed expert witnesses, rule 706.

Another major problem with the present bill is the procedure for amending rules of evidence. Under the committee bill, the Supreme Court may propose amendments to the rules we enact here which become law unless the House or Senate vetoes those amendments. Many rules of evidence, however, involve major policy questions, especially rules of privilege—such as husband and wife, lawyer and client, or newspapermen's privilege. By creating privileges, we express a desire to promote a social objective: for example, promoting a free press, encouraging clients to be candid with their lawyers, and so forth.

Rules creating, abolishing, or limiting privileges are, therefore, legislative. Nonetheless, under the committee bill we would be allowing the Supreme Court to legislate in the area of privilege subject only to a congressional veto. This procedure is unwise since rules concerning privilege, if enacted, should be done through an affirmative vote by Congress.

The amendment procedure is not consonant with the proper exercise of congressional prerogatives. Therefore, I intend to propose an amendment that will prevent any proposed rule, which seeks to change the law of privileges, from going into effect unless Congress acts affirmatively to approve it.

Mr. DENNIS. Mr. Chairman, will the gentlewoman yield?

Ms. HOLTZMAN. I yield to the gentleman from Indiana.

Mr. DENNIS. Mr. Chairman, I am sure my colleague from New York will agree, at any rate, that on the point we have been talking about regarding amendments to the rule. We have in our proposed bill here ameliorated the subject as it existed previously.

Before, the court asserted the right, at any rate, to submit these rules under a provision where they became effective within 90 days and required a veto of both Houses, whereas we now provide 180 days and either House can nullify the rule, so that to that extent at least we have given the Congress greater power than before.

Ms. HOLTZMAN. Mr. Chairman, I certainly agree with my colleague that we have given the Congress greater power than it had under the Enabling Acts, but I think we have not given Congress enough power and have given the Supreme Court too much power. In fact, as the gentleman from Indiana will recall, there was a question raised in our hearing as to whether the Supreme Court has the power under article III of the Constitution to promulgate ex cathedra substantive rules such as rules of privilege. So, we may be unconstitutionally delegating power to the Supreme Court under the enabling provision in the committee's bill.

Mr. DENNIS. Mr. Chairman, I understand that problem, although the decision seems to have been the other way except for Justice Douglas.

Along these same lines, it would also be true that if the Court comes in now with anything, for instance, on the matter of privilege, at least we will have an opportunity to pinpoint that subject and to debate it separately from the great mass of rules of evidence such as would have been the case if we had not taken section 5 out of this particular situation.

Ms. HOLTZMAN. That is true, but the Supreme Court might promulgate rules in an area in which we in Congress feel that there is no need for codification, for example, in the matter of privilege. This might occur even though Congress has already considered and rejected codification.

The proposed procedure is unwise in several basic respects. First, the procedure requires Congress, under the pressure of a deadline, to veto any proposed action by the Supreme Court. We have considered these rules extensively over a long period of time. This should be evidence of the danger of being forced to react to the lead of the Supreme Court.

Second, the Supreme Court is not inherently equipped to decide many of the substantive questions of policy interwoven into many of the rules, particularly when these policy decisions of the Court would be made outside the judicial crucible of a case or controversy. Incidentally, Justice Douglas stated that the Supreme Court was merely a conduit in the production of the rules which we initially considered in committee. Therefore, Congress cannot be certain that it will be the wisdom of the Justices which is involved in promulgating a rule.

In matters as important as privileges—husband-wife, lawyer-client, newspaperman—Congress should always act explicitly and affirmatively. Legislation by inaction is not a practice which this body can adhere to and command the respect of the American people.

Finally, I do not think the present state of the enabling act is either constitutional or consonant with our concept of congressional prerogatives.

For the foregoing reasons, despite the splendid job the committee has done in making these rules preferable to those originally submitted, I would urge the Members to consider carefully the question of whether or not we need codification at this time.

Mr. HUNGATE. Mr. Chairman, if there is no objection, I will proceed for just a moment.

Mr. Chairman, I would want to say that the members of the committee recognize how charming the distinguished lady is, even in disagreement, and I think she suggests the arguments to that point as to whether or not there need be codification as well as those arguments can be presented.

Her contribution and thoroughness and study of these rules have saved us from many a stubbed toe and many an error. She has been a very valuable member of the subcommittee and of the full committee in working on the rules.

I would say as to the matter, if I understand the facts correctly, that we are told that about 25 percent of the appeals with which the courts deal, deal with questions of evidence. I recognize that we cannot rely altogether on statistics. As the fellow said, "You can prove by statistics that sitting in the front row of a burlesque theater makes you baldheaded," so we had to rise above statistics, although we cannot ignore them in a case of this kind.

Mr. Chairman, I would also say——

Mr. GROSS. Mr. Chairman, will the gentleman yield?

Mr. HUNGATE. Mr. Chairman, I yield to the gentleman from Iowa.

Mr. GROSS. Mr. Chairman, was the gentleman referring to my bald head?

Mr. HUNGATE. Mr. Chairman, the gentleman from Missouri would not include the gentleman from Iowa unless he requested to be joined.

Mr. Chairman, the Federal Rules of Civil Procedure, which I believe went into effect in 1938, went into effect under the enabling act which became effective in 1934.

In essence this is what it really involved, as I see it, although the Congress took no action at that time, and it went on through. I say that because I hope it will be a favorable comparison to the study or at least the action taken at this time.

Mr. Chairman, I certainly would not urge this bill is perfect, because as my predecessor who spoke stated, this bill is not perfect. But the Sun has its spots, the diamond has its flaws, gold will not rust and the good will shine through.

Mr. SMITH of New York. Mr. Chairman, I yield 10 minutes to the gentleman from Iowa (Mr. MAYNE).

Mr. MAYNE. Mr. Chairman, I thank the gentleman from New York for yielding this time to me.

At the outset I wish to commend the gentleman from New York and the distinguished chairman of the subcommittee, the gentleman from Missouri (Mr. HUNGATE) for their splendid performance in guiding this subcommittee through a very difficult and lengthy task, indeed. They have presided over our consideration of the rules of evidence with great distinction and success.

I say that as one who at the outset was not at all enthusiastic about having a congressional subcommittee or committee, or the full House, for that matter, get so deeply involved in the day-to-day problems of trying to evolve detailed rules of evidence.

I will also say in response to the comments made by the gentlewoman from New York that, as a longtime practicing attorney in the Federal courts, I feel very strongly that to have this codification with Federal rules of evidence finally written down in one convenient place is going to be a tremendous asset as a working tool to the practicing lawyer and to the client of the practicing lawyer. It will be particularly helpful to young lawyers throughout the country who are not as familiar as older, more experienced trial lawyers with what you have to do to get into Federal court and try a case before a judge and perhaps a jury. Younger lawyers are now at a very considerable comparative disadvantage when they have to contend with

oldtime veterans who have a vast store of practical know-how and experience with the day-to-day workings of the court. They are familiar with what rulings to expect on the evidence in one Federal district court which may be very different from those in another court in the absence of any uniform Federal rules of evidence. They are well versed in all of the idiosyncrasies and preferences of the sitting trial judge and may not hesitate to exploit this familiarity, perhaps unfairly, at the expense of the person who is represented by a less experienced or younger lawyer.

I think the concept of having a codification of the Federal rules available to all members of the trial bar is very salutary and particularly it is going to enable the young members of the bar to become effective, full-fledged practitioners much earlier than would otherwise be the case.

Mr. Chairman, my diffidence about having the Committee on the Judiciary, and our Subcommittee on Criminal Justice get into a revision of the rules submitted by the Supreme Court so deeply was that I had a healthy awareness and respect for the tremendous amount of work which had already been done on these proposed rules through a period of many years by the Advisory Committee on Rules of Evidence of the Judicial Conference of the United States.

This goes way back to 1958, I will say to the Members of the House, when the Judicial Conference of the United States was authorized by the act of July 11 to carry on a study of the operation and effect of the rules of practice and procedure and to recommend to the courts such changes and additions as to the conference might deem desirable.

The Judicial Conference authorized its Chairman, the Chief Justice, to appoint a Standing Committee on Rules of Practice and Procedure and thereafter referred requests for rules changes to such committee. In March 1961, upon the standing committee's recommendation, the Judicial Conference authorized appointment of an ad hoc advisory committee on rules of evidence. The Chief Justice appointed to this committee Prof. James William Moore, chairman, Hon. Dean Acheson, Judge Phillip Forman, Judge John C. Pickett, Judge Walter L. Pope, and Judge E. Barrett Prettyman as members, Prof. Thomas F. Green as reporter.

This committee, after studying the matter carefully, made its final report in 1963 and stated—

It was feasible and desirable to formulate uniform rules of evidence to be adopted by the Supreme Court for the United States District Courts.

The recommendation was transferred to the Judicial Conference, which approved the recommendation in March 1963. Then on March 8, 1965, pursuant to that approval, the Chief Justice of the United States appointed a really top-flight Advisory Committee on Rules of Evidence of the Judicial Conference. He appointed Albert E. Jenner, Jr., chairman, Prof. Edward W. Cleary of Champaign, Ill., as reporter. Other members were Judge Sobeloff, Judge Estes, Judge Van Pelt, Prof. Thomas Green, Professor—now Judge—Weinstein, Professor—now Judge—Joiner, David Berger, Hicks Epton, Robert Erdahl, Egbert Haywood, Frank Raichle, Herman Selvin, Craig Spangenberg, and Edward Bennett Williams.

From 1965 until 1971, when the report was finally submitted, this distinguished committee was made up of leading lawyers who are daily trying lawsuits in the district courts of the United States all over the country, the cream of the trial bar, and also included a number of the most knowledgeable judges sitting in the trial courts in the federal system, plus some of the best legal scholars in the academic world, law professors who have been considered the outstanding academic experts in the law of evidence. All of these, the trial bar, the trial and appellate bench, and the legal faculties were fully represented on this distinguished committee. It is their work product, that we essentially are going to be acting on next week and which we are discussing today. And I think it only appropriate to inform the House of the many hours, days, and months that the Advisory Committee devoted to its important task.

The Subcommittee on Criminal Justice and the full Committee on Justice, Committee on the Judiciary, have made some changes, but more than half of their work product was not changed at all.

The advisory committee started by holding 14 sessions, usually of 3 or 4 long days each, in Washington, D.C., between June 18, 1965, and December 14, 1968. At these the members discussed, frequently amended and approved or disapproved the draft rules and comments prepared by the committee's very capable reporter, Prof. Edward W. Cleary.

At the committee session in December 1968, the advisory committee approved a preliminary draft of the complete rules, which it transmitted to the standing committee on January 30, 1969, for publication.

This preliminary draft was printed in pamphlet form and widely circulated to the bench, the bar, and the teaching profession in March 1969, with the request that comments and suggestions regarding it be transmitted to the standing committee by April 1, 1970.

A great many comments, suggestions, and proposals for changes were received during that year and up to August 1970, and were made available to the advisory committee and its reporter. All of them were given full study by the reporter and were considered by the advisory committee at two sessions in May and August 1970, extending over a total of 10 days.

As the result of this consideration, a great many changes were made in the preliminary draft to reflect changes made by the advisory committee pursuant to suggestions received from the public.

The rules as thus revised were approved by the advisory committee and were transmitted by the standing committee to the Judicial Conference, which, at its session in October 1970, approved them and forwarded them to the Supreme Court with the recommendation that they be promulgated.

The Court, however, believing that the public should have an opportunity to see and comment upon the rules in their final revised form, returned them for republication and further study in the light of any comments which might be received thereon.

Arrangements were accordingly made with West Publishing Co. to publish the final draft in the advance sheets of the Supreme Court Reporter, the Federal Reporter, the Federal Supplement, and the Federal Rules Decisions. This was done in March and April 1971, and a large number of reprints were distributed to those specially interested.

Comments with respect to the final draft were received from a number of individuals and organizations, including the Department of Justice and the chairman of the Subcommittee on Criminal Laws and Procedures of the Senate Committee on the Judiciary.

These suggestions were fully considered by the advisory committee and by the standing committee, and a number of changes of the draft were made in response to them. The revised definitive draft which incorporated these changes was approved by the Judicial Conference at its session in October 1971, and again forwarded to the Supreme Court with the recommendation that they be promulgated by the Court on November 20, 1972.

As Judge Albert B. Maris, Chairman of the Standing Committee of the Judicial Conference on Rules of Practice and Procedure, testified before our subcommittee on February 7, 1973:

The Rules of Evidence which the Court has now promulgated have had the most thorough and lengthy consideration, not only by the Judicial Conference and its two committees which are primarily responsible for their form, but also in very real sense by the members of the bench, the bar, and the legal scholars of the country who are interested in the subject.

The part the members of the profession have had in developing and refining the rules will be apparent when the final draft as promulgated by the Court is compared with the preliminary draft published in March 1969. And it is fair to say that the vast bulk of the comments received by the committees was favorable and constructive. This is not to say that there was no opposition voiced to the project as such, as well as to individual rules.

But as to the usefulness of the project as a whole, I need only say that the Judicial Conference decided that question 10 years ago, after the most careful study and consideration, and its decision has been applauded by an overwhelming chorus of Federal district judges and trial lawyers who believe, as the Judicial Conference does, that the existence of a readily available and authoritative statement of the rules of evidence will be extremely helpful in conducting the trial of cases in the district courts, will reduce the possibility of erroneous rulings, and thus the number of appeals, and will generally expedite the trial of cases.

Mr. Chairman, I say to you we are at the end of a long and difficult trail when we finally reach this point where we ask the House for approval of these rules.

It will be seen from above that the

advisory committee's drafts were published in the West Publishing Co.'s reports and given wide circulation. Thousands of comments came in. The advisory committee then revised the drafts and went through this process over and over again and finally submitted their work product to the Judicial Conference, which approved it, and then to the Supreme Court, which also approved it. And now with some additional changes made by our subcommittee and the full Committee on the Judiciary, we have it before us today.

Mr. Chairman, I say and I said last February that I feel our subcommittee has bitten off a big order. We have undertaken to superimpose our judgment as to what should be in the rules of evidence over that of the very distinguished advisory committee. Thus after there had been so much input into their work from so many judges and lawyers and legal scholars all over the United States writing in their comments. After considering all these suggestions and incorporating many of them the advisory committee finally came up with a product of which the entire legal profession could be proud.

The CHAIRMAN. The time of the gentleman has expired.

Mr. SMITH of New York. Mr. Chairman, I yield 5 additional minutes to the gentleman from Iowa.

Mr. MAYNE. And then along comes the Congress of the United States and says "Not so fast. We do not care how prestigious the advisory committee is or how much time it spent on the rules. The lawyers in Congress think they know something about the rules of evidence too and they want to have a hand in the final work product."

So at the beginning of the 1st session of the 93d Congress it became evident that a majority of Members of this body did feel that the rules should be much more carefully examined by the Judiciary Committee. That task was delegated to our Subcommittee on Criminal Justice. And although I was in the minority who felt that we should let the rules proposed by the Supreme Court go into effect promptly and should not incur the long delays which would result from a congressional examination.

I have in good grace tried my best to work constructively with the subcommittee in trying to improve the rules submitted by the Supreme Court. I am not confident that we have in some respects, at least, really improved the final result, but in others I am sure we have.

At any rate, we have done the best that we could, in 24 long working sessions of the subcommittee and several meetings of the full committee. Certainly under the zealous and untiring leadership of the gentleman from Missouri (Mr. HUNGATE), the chairman of the subcommittee, we have devoted a lot of time, and I am hopeful we have come up with an overall sound result which the House can in good conscience accept.

There is one rule of evidence on which I am going to be constrained to offer an amendment next week, which will be printed in the RECORD within the time required by the rule, and that rule 405 (a). I want my colleagues to be notified that this amendment will be forthcoming.

The following recommendation was made by the advisory committee as a method of proving character in rule 405 (a):

(a) Reputation or opinion.—In all cases in which evidence of character or a trait of character of a person is admissible, proof may be made by testimony as to reputation *or by testimony in the form of an opinion.* On cross examination, inquiry is allowable into relevant specific instances of conduct.

But now the Committee on the Judiciary has stricken the words in italic "or by testimony in the form of an opinion."

This reverts to the former and now widely discredited rule that a person's character can only be proved by showing their reputation and not by showing one's opinion as to that character. This clearly is an antiquated rule which modern courts have been rejecting. I will ask the House of Representatives in its wisdom to adopt modern concepts of evidence which permit testimony on the basis of an opinion.

In support of this position I call my colleagues to the recent decision of *United States* v. *Joseph Armand Oliver* (No. 73-1283) handed down by the Circuit Court of Appeals for the Eighth Circuit on November 14, 1973.

I will offer that at the appropriate time, and hope that my colleagues will support my liberalizing amendment to rule 405 (a). More important, however, is prompt action approving all of the proposed rules now before us. Inasmuch as the other body is apparently waiting on us before taking any action whatsoever, it is incumbent on us to expedite final House action in every way possible.

Mr. HUNGATE. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, I again wish to commend the gentleman from Iowa on his contribution, not only today but throughout the work of the committee, on this difficult task of providing a codification of the Rules of Evidence. I think the points he makes are particularly noteworthy, also taking into consideration the people who have studied them over a period of 12 or 13 or 14 years, and these were also accomplished by the committee; also the fact that many courses were offered, many cassettes were sold, and many books were printed as to how these rules would affect the practice of law beginning last July 1.

I think it does show there is an expectation on the part of the bench, the bar, and the law schools of the country, that such a codification would take place.

I appreciate the amendment which he has referred to and which he may offer.

I should like to say that throughout the work of the committee we have taken the position that many amendments have improved the bill. That is the objective of our work, not a proprietary matter, and we seek to have the House work its will on each of these with our goal being to establish the most equitable system of the Rules of Evidence we can, recognizing that any man's life or liberty may turn on just such questions as these.

I should also like at this time, Mr. Chairman, to commend the ranking Republican member on the full committee, the gentleman from Michigan (Mr. HUTCHINSON) who in his usual quiet but thorough way has contributed a great deal to the deliberations of the subcommittee and the full committee on this project. I should also like to say that I think we have been blessed with excellent staff work by the staffs of the majority and minority put together, who seemingly were tireless in meeting the demands which we made upon them and who should receive a large measure of credit for any success the committee's work may have.

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

Mr. SMITH of New York. Mr. Chairman, I yield 10 minutes to the gentleman from Indiana (Mr. DENNIS).

Mr. DENNIS. Mr. Chairman, it has been a pleasure to me, as I think it has been to all members of this subcommittee, to work, all of us together, on this very important, complicated, and technical legal matter—the codification of the rules of evidence for the U.S. courts.

The chairman of the subcommittee, the gentleman from Missouri (Mr. HUNGATE) the ranking minority member, the gentleman from New York (Mr. SMITH), all members of the committee, subcommittee, and the staff—Herb Hoffman and Roger Pauley—have done a very, very good professional job.

When I first started to practice law, now some years ago, I worked for a man who was a good lawyer, and he was telling me one day about one of our colleagues at the bar.

He said: "There is not a nicer fellow around than so-and-so. He is an awfully nice guy but there not being many pictures in these laws books he just does not read them much."

It is a difficult and complicated subject and I would be reminded of that story about my colleague of those days by the sparse attendance here of the members of the bar in this body if it were not for the fact that I realize this sparse attendance is caused in large part by the vagaries of our scheduling here. We really were not expecting, nor were we expected to have, this general debate, as I understand it, until probably tomorrow, and I am afraid that there are probably a great many Members of this body who are also members of the bar who might like to be here and would be here if it were not for that situation. That is regrettable.

This is at least the second time this has happened to an important bill I was interested in this session. The other was the war powers bill, probably one of the most important bills ever before this body, and yet we managed to schedule it so that the general debate took place between about 9:30 p.m. and midnight, when most sensible people had gone home. We are confronted with that same problem here today, which I find unfortunate.

One of the questions in considering a code of evidence is whether or not we

should have a code at all, as my colleague, the gentlewoman from New York (Ms. HOLTZMAN), has pointed out and which was also touched upon by my colleague, the gentleman from Iowa (Mr. MAYNE).

I personally do not think the heavens will fall if we do or if we do not have a code of evidence in the Federal courts. Lawyers have managed to practice without one for a great many years and I am quite sure they could continue to do so.

On the other hand there are advantages to having a code. There is the matter, too, which is part of uniformity, of expedition in the course of trials. If everybody knows pretty well what the rules are we could probably save some time in colloquies at the bench as to what rules of evidence ought to apply and that sort of thing, and there may be something to this business, as my friend, the gentleman from Iowa (Mr. MAYNE), says of people more or less being on a uniform footing, although that comes awfully near to the heretical argument that it ought to be easy for everybody to practice law.

Mr. MAYNE. Mr. Chairman, will the gentleman yield?

Mr. DENNIS. I yield to the gentleman from Iowa.

Mr MAYNE. Mr. Chairman, would the gentleman concede that perhaps his feeling in this respect grows stronger as his experience in the law grows greater and his comparative advantage over the beginning practitioner becomes more pronounced?

Mr. DENNIS. The gentleman may be correct. As a matter of fact I think, facetiousness aside, I am not really worried about the fact that this subject will ever get too simple or that having it in a code will make it all that much simpler.

My father, who was also a lawyer, told me it was a pretty good idea to know something about the common law. Otherwise, he said, the legislature may repeal everything one knows. I think that sentiment applies to the rules of evidence, regardless of the fact that we may have a code.

It might be worthwhile to just briefly run over the topics we are covering here because when we do it we will see we really have made a pretty wide, sweeping approach to the subject of evidence. We have covered the field pretty thoroughly, and I think we have done a good job.

In the first place a very distinguished committee of lawyers and law professors worked on this code for many years under the aegis of the Supreme Court. In the second place I think our subcommittee, made up of practicing lawyers, has done a pretty thorough job of going over that work. Most of this code is a codification of existing law, hopefully adopting the better view where there is a dispute, and such innovations and departures as are made I think are those which take off naturally from that foundation.

Probably, as we finished, we have made fewer new departures in the code than it contained as it came to us and as it was presented.

So I think we have a good piece of work here, as well as an extensive one.

In the bill there is first a section on the general subject. Then we take up the question of judicial notice; then the very complicated matter of presumptions; then the question of relevancy; then the matter of privileges, which we actually left as it is, finally, and which I touched on in my remarks on the rule.

Then there is the question of witnesses; then opinions and expert testimony; then the great subject of hearsay and exceptions to the hearsay rule.

Then there is authentication and identification; contents of writings, a miscellaneous section, and a section about amendments; so it is a pretty all-inclusive piece of work which was given much study by those working in this field.

Also, the code makes a difference not only to the people who work in this field, but to the people they work for and who have business in the courts.

Now, in the time available I am just going to touch on a few of these subsections and on a few of the things we did.

On judicial notice, for example, there is a dispute whether or not when the court takes judicial notice of something it is any longer possible to put in evidence to contradict it. Of course, one has a right to argue about it until the court arrives at that conclusion; but once the court takes judicial notice, is that disputable any longer?

The school of thought that I more or less belong to says judicial notice is just another piece of evidence. One puts in evidence against it just as he puts in evidence against anything else.

The code as presented to us took the position that the court, once it took judicial notice, would give a binding instruction. It was a fact for that case and could not be contradicted.

As we finally wound up, that is the rule adopted in civil cases, but not in criminal cases, because we felt there that the court would be out of line telling the jury they had to accept anything as a fact. They could, but they do not have to in a criminal matter.

Then we have presumptions, one of the most technical questions, probably, in the whole field of evidence. Some courts, as we know, say a presumption is evidence; it is weighed in the scale and if it adds to the weight, the scale will fall that way. Other theories say that is completely wrong, that a presumption never does anything except shift the burden of going forward with the proof, that once evidence is put in to the contrary, a presumption disappears from the case entirely.

Personally, that is the school of thought in which I was trained.

The code here, as finally adopted, takes sort of a middle road. It does not regard a presumption as conclusive of anything or exactly as evidence.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. SMITH of New York and by unanimous consent, Mr. DENNIS was allowed to proceed for an additional 7 minutes.)

Mr. DENNIS. Mr. Chairman, the rule there says that even though there is countervailing evidence put in, a presumption, while it need not be followed, stays in the case and is sufficient to justify the trier of the facts so finding; it will take the case to the jury.

The matter of privileges we left where they were, regarding them as rather substantive law than rules of evidence and stating that where there is a diversity case in the Federal cout, the privilege would be governed by the State law, as it now is. I refer to such matters as the husband-wife privilege, physician-client, and attorney-client and other privileges of that kind.

On witnesses, there was one controversial section.

That is, the question of cross-examining the witness, be he the defendant or simply a witness, as to his prior criminal convictions. As the Members know, we take the position in this country that we are trying a man for the crime with which he is charged and that we have to have evidence of his guilt of that crime; that we do not convict him and send him to the penitentiary simply because he is a generally bad character. Yet, in most States we allow him to be asked about prior convictions if he has the hardihood to take the witness stand on the theory that this reflects upon his credibility. Some people think that is a good rule; some do not. I do not. I think that when we do that we get down to the place where we are really convicting the man because of bad character, which we say we do not do; and most of the research on the subject indicates that a very large proportion of the miscarriages of justice which occur are in those cases where either we prejudice the man because he does take the witness stand in his own defense, or we scare him off and he does not tell his story because of that rule.

The code as it came to us did not do what most of the States do; that is, let us ask him about anything and everything in the way of previous convictions. It said we can ask him about an offense which did have some bearing on his credibility, such as perjury, and, in addition, we could ask him about a serious offense for which he could be sentenced for over a year; and, according to one version proposed, this last was limited to cases where the Court felt that the usefulness of such a question outweighed its prejudicial effect.

We amended this section, on my motion, to hold cross examination as to prior to convictions down to previous convictions which do in fact bear on credibility, that is convictions which involve falsehood or dishonesty and those only. I am sure there will be amendments offered on that, but Mr. Chairman, I submit that the provision of the committee bill is a good solution and should be supported.

In respect to hearsay, we had a number of controversial matters. We had a section in there which was called past recollection. It would have permitted us to put in evidence a man's narrative statement which he made some time about something which happened in the past;

the proposed code allowed us to use it if there were no suspicious circumstances—if the statement was not made in expectation of litigation or made to a claim agent or anything like that; it could be put in evidence for the truth of the matter asserted, although simply a statement made out of court and not under oath nor subject to cross examination. This was pure hearsay. The committee struck that out and I think it did well in so doing.

Also, after listing the usual exceptions to the hearsay rule, the code, as presented, had a general, catch-all phrase which said that courts could engraft additional exceptions which were consistent with the spirit of the foregoing exceptions, that was about what it came to. The committee decided that was too broad. I am of that opinion myself. We took that out. I like to have some idea of what the rules are, what comes in and what stays out, when I am trying a lawsuit, so we struck that out, that catch-all phrase. An amendment may be offered to put it back in, which personally I would oppose.

Mr. Chairman, most of the exceptions to the hearsay rule, however, are pretty well recognized exceptions as they now stand, according to one accepted view or another.

Finally, as has been mentioned, we did change the manner of amendments in the future. There has been a dispute as to whether rules of evidence came within the rules of civil procedure concept which we have given to the Supreme Court; whether the Court has any real right to submit rules of evidence as it did in respect to this bill. In the present measure we more or less recognize that right, but we also circumscribe it, because whereas the rules the Court handed down here would have become in force and effect within 90 days unless the Congress as a whole vetoed them, any future rules which the Court may recommend to us on the subject of evidence under this code will not become effective for 180 days and they can be vetoed by either House of the Congress. Therefore if we have sufficient interest in the matter, it is not too difficult to strike a proposed rule down and to keep the situation within our own control.

We have to overrule the courts from time to time by legislation, of course, if they make decisions which we do not like; and this is true in respect to the admissibility of evidence, among other things.

So I do not think it is too bad to give the Court an opportunity to bring these things to our attention in that manner, as long as we keep an adequate veto power in our own hands.

Mr. Chairman, I think we have done that, and all in all, I believe this is a workmanlike set of rules of evidence, and I recommend its adoption by this body.

Mr. HUNGATE. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, I will first inquire of the distinguished gentleman from New York whether he has any further requests for time.

Mr. SMITH of New York. Mr. Chairman, will the gentleman yield?

Mr. HUNGATE. I yield to the gentleman from New York.

Mr. SMITH of New York. Mr. Chairman, I will say to the gentleman that I do not have any further requests for time.

Mr. HUNGATE. Mr. Chairman, since there are no further requests for time on this side, I would like to include at this time the statement that one of the great privileges of my congressional service has been to work with the distinguished gentlemen and lady on this subcommittee, and I will say that I am grateful for the contributions of the Members to this project.

Of course, a close competitor to that privilege would be the privilege which I have had to work with our former colleague, the gentleman from New York, Mr. Celler.

Mr. Chairman, as we conclude the debate, I do not think it would be out of order for me to relate two stories appropriate to our situation.

I will say that the committee has done its best on this evidence code, and in some sense our situation is much like that of the fellow who was brought in before the judge and charged with drunkenness and arson.

He was charged with arson by reason of setting a bed on fire.

He was asked how he pleaded, and he said, "Judge, as to drunkenness, I plead guilty. As to arson," he said, "that bed was on fire when I got in it."

Mr. Chairman, I will say to the Members that we have done our best in the field of the rules of evidence, although there may be some prior problems that remain with us.

Finally, Mr. Chairman, I will remind the Members that our colleagues have alluded to the "green book" approach and how much it will help younger members of the bar and how much it will help people around the country to have a uniform practice. But I feel that there will always be a field for special learning and expertise in the law and the value which is placed on experience.

Mr. Chairman, I think an appropriate story for the situation we find ourselves in is one which our former colleague, the deceased Mike Kirwan, told frequently concerning the time there was some difficulty in Ohio over some election—maybe it concerned some election financing problem. We all have these problems at times.

Mike was discussing this problem, and lo and behold, they convened a grand jury. As we all know, Mike was a man who had gone to the eighth grade in school. He did not have an eighth grade education, however; actually he had the equivalent of a Ph. D. education, because he never stopped learning.

When he was telling the story, he said, "There I was, with no education, and a full grand jury was asking me questions about my election."

Mike said, "Then they brought in three Harvard lawyers. They even brought in three Harvard lawyers to prosecute me, and," he said, "I was just down at the bottom of the heap."

After the session, he went down to the hotel that evening, and he went down to dinner, and there was nobody with him. He was sitting over in the corner alone, and he called his waiter over.

His waiter came over to the table. His waiter came over, and he told Mike, "You should cheer up."

Mike said, "What do you mean, I should cheer up?"

The waiter said, "You are going to be all right."

Mike said, "What do you mean, I am going to be all right? I have got three Harvard lawyers after me. What do you know about the facts? What do you know about the law? What do you know about the evidence?"

The waiter said, "Mr. Chairman, I don't know anything about the evidence, but I'm the foreman of the grand jury."

So there will always be a place, I think, for knowing something besides the law and an advantage in knowing the local situation.

Mr. Chairman, I have no further requests for time.

Ms. HOLTZMAN. Mr. Chairman, I plan to offer an amendment to the proposed Federal Rules of Evidence—H.R. 5463—which will strengthen congressional prerogatives over questions of evidentiary privileges.

Under H.R. 5463, the Supreme Court is empowered to abolish, create, or modify evidentiary privileges—husband-wife, doctor-patient, lawyer-client—simply by proposing a new rule. The Supreme Court's rule automatically becomes law unless either the House or Senate disapproves the rule within 180 days.

My amendment would not give such sweeping power to the Supreme Court. Instead, it would require an act of Congress to enact a law creating, abolishing, or modifying any privilege.

Evidentiary privileges are not legal technicalities. Rather, they involve decisions over some of the most critical issues facing us. For example, should there by a privilege for Presidential or Executive communications and, if so, how broad should it be? Should there be a newspaperman's privilege and, if so, what kind? Should there be a doctor-patient, accountant-client privilege? Should we narrow or expand the confidentiality of husband-wife communications?

Unless my amendment is adopted, we will be giving the Supreme Court the basic power to legislate such decisions.

Giving the Supreme Court this power is unwise. First, evidentiary privileges have evolved in the past on a case-by-case basis. In H.R. 5463, we depart from that tradition and permit the Supreme Court to legislate by promulgating rules, instead of formulating such decisions in the judicial crucible of cases in controversy. This procedure may also be an unconstitutional delegation of powers.

Second, if a law is to be written in the area of privileges, then Congress, not the Supreme Court, is the institution best capable of weighing the social and political implications and making the legislative decision.

Finally—and perhaps most important—it is inconsistent with our notion of congressional prerogatives to permit laws on evidentiary privileges to go into effect as a result of congressional in-

action rather than by affirmative steps. We cannot hope to maintain public confidence in the Congress if we continually abdicate our powers to other branches of Government.

The text of the amendment follows:

On page 114, line 22, strike out the material starting with the quotation marks and insert in lieu thereof the following:

"Any such amendment creating, abolishing, or modifying a privilege shall have no force or effect unless it shall be approved by act of Congress; and"

Mr. Chairman, I also plan to offer an amendment to the proposed Federal Rules of Evidence—H.R. 5463—which will narrow a potentially dangerously broad exception to the hearsay rules relating to public officials' reports.

Under H.R. 5463, section 803(8)(B) of the Federal Rules of Evidence permits "Records, reports, statements, or data compilations, in any form, of public offices or agencies, setting forth . . . matters observed pursuant to duty imposed by law" to be admitted as an exception to the hearsay rule.

As it stands, this rule applies to both criminal and civil cases and applies whether or not the public official involved is available as a witness.

This rule—which departs from the common law—would appear to permit random observations of social workers, building inspectors or policemen to be used in a criminal or civil trial without the safeguard of cross-examination so long as these observations are contained in a report.

For example, if a social worker, under a duty to visit a home to report on the unemployment status of the occupants, observes and reports certain inflammatory remarks between the husband and wife and reports that there was a smell of marihuana in the apartment, that report would be admissible in a divorce proceeding where compatibility is in issue or would be admissible in a criminal proceeding against the couple for the possession of marihuana.

A basic objection to these uses of the social worker's report is that the social worker would not normally be under a duty to report on such matters as the existence or nonexistence of marihuana. Consequently, a court cannot depend upon the social worker to have been trained to be a reliable reporter with respect to the scent of marihuana.

There is no reason to permit random observations or evaluations to be used as evidence just because they were made in the course of a public official's duty. There is no reason to think that such observations or evaluations are more reliable than when made by non-governmental employees.

My amendment would narrow the proposed rule to permit an observation—not an evaluation—to be admitted into evidence only when the public official had a duty to make that observation.

Remember, exceptions to the hearsay rules permit evidence to be admitted without the safeguard of cross-examination of the declarant. If we memorialize this official records exception to the rule, we should be certain that we have not opened the door to the admissibility of observations which are not likely to be reliable.

My proposed amendment will thus remove an ambiguity in the language which could dangerously expand the common law.

The text of the amendment follows:

On page 94, line 11, after the word "law" and before the comma, insert the following: "as to which matters there was a duty to report".

The CHAIRMAN. Pursuant to the rule, the Clerk will now read the substitute committee amendment printed in the reported bill as an original bill for the purpose of amendment, and section I of the substitute shall be read for amendment by articles.

No amendment shall be in order to the substitute except amendments offered by direction of the Committee on the Judiciary or germane amendments printed in the CONGRESSIONAL RECORD at least 2 calendar days prior to consideration of the substitute for amendment; and no amendments to article 5 of section I of the substitute shall be in order.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following rules shall take effect on the one hundred and eightieth day beginning after the date of the enactment of this Act. These rules apply to actions, cases, and proceedings brought after the rules take effect. These rules also apply to further procedure in actions, cases, and proceedings then pending, except to the extent that application of the rules would not be feasible, or would work injustice, in which event former evidentiary principles apply.

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RULES OF EVIDENCE FOR UNITED STATES COURTS AND MAGISTRATES

ARTICLE I. GENERAL PROVISIONS

Rule 101. Scope

These rules govern proceedings in the courts of the United States and before United States magistrates, to the extent and with the exceptions stated in rule 1101.

Rule 102. Purpose and Construction

These rules shall be construed to secure fairness in administration, elimination of unjustifiable expense and delay, and promotion of growth and development of the law of evidence to the end that the truth may be ascertained and proceedings justly determined.

Rule 103. Rulings on Evidence

(a) Effect of erroneous ruling.—Error may not be predicated upon a ruling which admits or excludes evidence unless a substantial right of the party is affected, and

(1) Objection.—In case the ruling is one admitting evidence, a timely objection or motion to strike appears of record, stating the specific ground of objection, if the specific ground was not apparent from the context; or

(2) Offer of proof.—In case the ruling is one excluding evidence, the substance of the evidence was made known to the judge by offer or was apparent from the context within which questions were asked.

(b) Record of offer and ruling.—The court may add any other or further statement which shows the character of the evidence, the form in which it was offered, the objection made, and the ruling thereon. It may direct the making of an offer in question and answer form.

(c) Hearing of jury.—In jury cases, proceedings shall be conducted, to the extent practicable, so as to prevent inadmissible evidence from being suggested to the jury by any means, such as making statements or offers of proof or asking questions in the hearing of the jury.

(d) Plain error.—Nothing in this rule precludes taking notice of plain errors affecting substantial rights although they were not brought to the attention of the court.

Rule 104. Preliminary Questions

(a) Questions of admissibility generally.—Preliminary questions concerning the qualification of a person to be a witness, the existence of a privilege, or the admissibility of evidence shall be determined by the court, subject to the provisions of subdivision (b). In making its determination it is not bound by the rules of evidence except those with respect to privileges.

(b) Relevancy conditioned on fact.—When the relevancy of evidence depends upon the fulfillment of a condition of fact, the court shall admit it upon, or subject to, the introduction of evidence sufficient to support a finding of the fulfillment of the condition.

(c) Hearing of jury.—Hearings on the admissibility of confessions shall in all cases be conducted out of the hearing of the jury. Hearings on other preliminary matters shall be so conducted when the interests of justice require or, when an accused is a witness, if he so requests.

(d) Testimony by accused.—The accused does not, by testifying upon a preliminary matter, subject himself to cross-examination as to other issues in the case.

(e) Weight and credibility.—This rule does not limit the right of a party to introduce before the jury evidence relevant to weight or credibility.

Rule 105. Limited Admissibility

When evidence which is admissible as to one party or for one purpose but not admissible as to another party or for any purpose is admitted, the court, upon request, shall restrict the evidence to its proper scope and instruct the jury accordingly.

Rule 106. Remainder of or Related Writings or Recorded Statements

When a writing or recorded statement or part thereof is introduced by a party, an adverse party may require him at that time to introduce any other part or any other writing or recorded statement which ought in fairness to be considered contemporaneously with it.

Mr. HUNGATE (during the reading). Mr. Chairman, I ask unanimous consent that article I of the committee amendment in the nature of a substitute be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Missouri?

There was no objection.

Mr. HUNGATE. Mr. Chairman, I move that the Committee do now rise.

The CHAIRMAN. The question is on the motion offered by the gentleman from Missouri.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. STEED, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 5463) to establish rules of evidence for certain courts and proceedings, had come to no resolution thereon.

GENERAL LEAVE

Mr. HUNGATE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks during the debate just concluded on the bill H.R. 5463.

The SPEAKER. Is there objection to

the request of the gentleman from Missouri?

There was no objection.

RESIGNATION AS REPRESENTATIVE OF EIGHTH DISTRICT OF MICHIGAN

The SPEAKER laid before the House the following resignation from the Congress:

WASHINGTON, D.C.,
January 28, 1974.

HON. CARL ALBERT,
The Speaker of the House of Representatives
Washington, D.C.

DEAR MR. SPEAKER: I would like to advise you that I have this date submitted my resignation as a Representative of the Eighth District of the State of Michigan in the House of Representatives, effective at midnight on Thursday, January 31, 1974. I will be sworn in as United States District Judge at 11:00 a.m. on Friday, February 1, 1974. I enclose a copy of my letter of resignation which, as required by Michigan law, has been submitted to the Governor and the Secretary of State of the State of Michigan.

It has been a real honor to have served with you and my other colleagues, and I deeply regret leaving this great Body after thirteen years of service to the residents of my District, the State of Michigan and our nation. I am grateful for the courtesies and friendship extended to me over the years, and the many fine friends I have made in the Congress will be among the chief and lasting rewards of my public service in the House of Representatives.

With warm personal regards and best wishes for your continued success,

Sincerely,

JAMES HARVEY.

CONSUMER HOME MORTGAGE ASSISTANCE ACT

(Mr. ST GERMAIN asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. ST GERMAIN. Mr. Speaker, today I am introducing the Consumer Home Mortgage Assistance Act of 1974. A near crisis has developed in the home mortgage market beginning with the ill-advised action by the regulatory agencies last July in permitting the infamous "wild card" certificate of deposit experiment, now terminated. The massive outflow of savings from institutions dedicated to providing home mortgage financing at reasonable interest rates to other institutions or to Treasury bills has created the worst drought in home mortgage financing in our history.

We took emergency action, Mr. Speaker, on October 2 by adoption of Senate Joint Resolution 160 which directed the regulatory agencies to halt the massive outflow by limiting the maximum effective passbook rates of all institutions, thus ending last summer's interest rate war. The casualties of this latest war are those who desire to sell their homes and those desiring to purchase either an existing home or a new home because of the high cost of mortgage money and increasingly the nonexistence of mortgage money at any price.

We can take no comfort from the most recent Bureau of Census figures which confirm our worst fears and mandate immediate action by the Congress if our people's housing needs are to be met. In December the seasonally adjusted starts fell to an annual rate of 1,355,000, lowest since May 1970. The startling 20 percent drop from November, the largest decline since February–March, 1960, demands immediate consideration of my bill, Mr. Speaker.

The Subcommittee on Bank Supervision and Insurance, which I chair, stands ready to act immediately just as we did on H.R. 11221, which cleared the Rules Committee yesterday. During last fall's "credit crunch" hearings a number of witnesses urged the adoption of the 100-percent public interest deposit insurance concept and an increase from $20,000 to $50,000 in depositors' insurance as a modest step in assisting our thrift institutions in attracting additional savings for home mortgage purposes. Our subcommittee held comprehensive hearings on November 5, 6, and 26, reported the bill out of subcommittee on December 6 followed by full committee action on December 14. Hopefully, the House next week will adopt our recommendations. We stand ready to act expeditiously on the bill which I introduced today.

Before summarizing briefly the salient provisions of the bill, consider for the moment, Mr. Speaker, the catastrophic consequence of any further delay by the Congress confronted as it has been by moratoria, suspensions of workable programs, indecisiveness and continued mismanagement by the administration. Only a virtual army of consultants appears to be benefiting by "further study and deliberation" and dilatory court tactics. It is time we thought of the young couple just entering the housing market unable to afford a new starter home and unable to face soaring rental charges for either apartments or homes as demand continues to exceed supply at an alarming rate. Or how about the elderly couple retiring who, having looked forward to being relieved of the responsibility of maintaining a home, are unable to move to apartments with special health conveniences due to a lack of qualified purchasers? While the administration continues to debate the future role of a declining FHA, conventional starts continue to fall. Older housing capable of being rehabilitated will not become availabel for the use of assisted Federal housing programs against the day we finally reach agreement, as we must, for the least fortunate among us. The time has come, Mr. Speaker, to remove artificial constraints allowing private enterprise the maximum opportunity to respond to the legitimate housing needs of our people.

Preserving the competitive position of our various financial intermediaries is of course important, reforming the structure of our financial institutions as the administration has recommended is likewise important, but of paramount importance is the task of guaranteeing access to credit at reasonable rates for the purpose of achieving "a decent home in a decent living environment" for all Americans. Such credit today is virtually nonexistent.

Mr. Speaker, I urge immediate action on the Consumer Home Mortgage Assistance Act of 1974 and at this point insert in the RECORD a brief section-by-section analysis of the bill.

SECTION-BY-SECTION SUMMARY OF CONSUMER HOME MORTGAGE ASSISTANCE ACT

TITLE I—LENDING AND INVESTMENT POWERS, FEDERAL SAVINGS AND LOAN ASSOCIATIONS

Sec. 101. Construction loans

Federal savings and loan associations are unnecessarily hampered in making residential construction loans in that they are restricted in methods of payment and types of security that require a complicated, time-consuming and needless series of recordings. The amendment would permit federal associations to make line-of-credit loans to builders which would be generally limited to situations related to the financing of construction of primarily residential real property as distinguished from loans to finance non-residential commercial real estate. This new lending flexibility would help to create a more competitive construction loan market and would assist in reducing closing costs.

Sec. 102. Single family dwelling limitations

This section would increase the present $45,000 limitation on the amount of the loan which a federal institution may make on a single family residence to $55,000. This is necessary if home lending is to take account of present day inflation. Real estate values have traditionally been on the ascent. Recent studies show that the cost of both existing and new housing has increased over 100% in the last 20 years. The cost of building materials, particularly lumber, has risen substantially over the last ten years. Accordingly, this amendment would conform the lending capacity of federal associations to the present housing market.

In addition, the amendment would allow an association to allocate only the excess over the limit to the 20% of assets requirement, where before the whole amount of the loan, including the amount under the limit, had to be counted.

Sec. 103. Lending authority under the Home Owners Loan Act

This section would permit a Federal Savings and Loan Association to make loans respecting real property or interest therein used primarily for residential purposes without regard to the limitations and restrictions otherwise contained in Section 5(c) of the Home Owners Loan Act in an amount not in excess of 10% of its assets. This authority would be subject to such conditions as the Home Loan Bank Board may prescribe.

TITLE II—MORTGAGE CORPORATIONS

Sec. 201(a) FHLMC loan-to-value ratio

Would allow purchase of a conventional mortgage with the outstanding balance exceeding 80% of value when the excess over 80% is insured by a qualified private insurer. Under existing law, such mortgages may be purchased only where the outstanding balance exceeding 75% of value is insured by a qualified private insurer.

(b) FHLMC Percentage Limitation of 1-year Mortgages

Would remove a limitation now in the law limiting the purchase of conventional mortgages over one year old at time of purchase to 10% of the conventional portfolio. However, the seller would have to agree to relend such funds within 180 days after the date of purchase by FHLMC.

(c) Maximum Principal Amount

Provides that the limitations governing the maximum amount of a conventional mortgage purchased by FHLMC be comparable to the limitations contained in the first sentence of section 5(c) of the Home Owners' Loan Act of 1933 ($45,000 in the case of single-family dwellings and the dollar amounts contained in section 207 of the National Housing Act for multi-family housing), except that such limitations may be increased by 25% with respect to mortgages on property located in Alaska, Guam, and Hawaii. With the enactment of section 202 of this bill, the single-family limit would increase to $55,000.

Sec. 202(a)–(e) Investment in FHLMC obligations

These subsections make clear that national banks, state-chartered banks which are members of the Federal Reserve System, Federal Home Loan Banks, federal savings and loan associations, and federal credit unions have statutory power to purchase mortgages, obligations or other securities which are sold or ever have been sold by the Federal Home Loan Mortgage Corporation without regard to limitations which might be otherwise applicable to purchase of such mortgages, obligations or other securities.

TITLE III—NATIONAL BANKS

Sec. 301. Real estate loans by national banks

This section would extensively revise section 24 of the Federal Reserve Act to authorize broader lending and investment powers for national banks relative to real estate. Under this revision banks would be authorized to make real estate related loans as follows:

1. Make real estate loans secured by other than first liens provided said lien when added to prior liens does not exceed the applicable ratio of loan to value. Loans of this type would be limited to 20 percent of unimpaired capital and surplus.

2. Make loans against unimproved real estate up to 66⅔ percent of appraised value and if improved with off-site improvements up to 75 percent of appraised value.

3. Continue to make loans against improved real estate up to 90 percent of appraised value for a maximum term of thirty years, but with no required amortization on any type of real estate loan except when it exceeds 75 percent of appraised value or is improved with a dwelling for one to four families. Amortization, where required, would be based on a maximum of a thirty-year payout, with no requirement that the loan be fully amortized by maturity if the term is less than thirty years.

4. Classify all loans, insured under the National Housing Act or by the Secretary of Agriculture, or where guaranteed by HUD when the guarantee is backed by the full faith and credit of the U.S., or fully guaranteed by a state agency or instrumentality thereof or by a state authority for the payment of which the faith and credit of the state is pledged, or at least 20% of which is guaranteed by the Veterans Administration as non-real estate loans and not subject to any of the limitations of conventional loans or included in the aggregate amount of real estate loans that may be made or in the aggregate of subordinate liens that may be made.

5. Continue the practice, where loans are secured by real estate and other collateral, to subtract the value of the non-real estate collateral from the loan and consider the balance only as a loan against real estate.

6. Consider a loan secured by a lien on real property, where there is a firm take-out from a financially responsible party to advance the full amount of the loan within sixty months, as a non-real estate loan.

7. Continue to consider loans, with a maturity of not more than sixty months made against a building under construction secured by a firm take-out to advance the full amount of the loan and loans to finance the construction of residential and farm buildings for a term not in excess of sixty months, as commercial loans and limit such loans to 100 percent of unimpaired capital and surplus.

8. Make construction loans up to 75 percent of appraised value without the necessity of a firm take-out.

9. Continue to classify loans, where the lender looks to the borrower's general credit standing, or an assignment of rent where a mortgage is taken as a precaution against contingency or where the bank agrees to participate with the Small Business Administration, as commercial loans.

10. Permit up to 10 percent of the maximum amount that may be invested in real estate loans to be placed in loans secured by real estate without the necessity that said loans conform to any of the individual loan limitations of the revised section.

The Comptroller of the Currency would be authorized to prescribe by rule or regulation such additional conditions and limitations on real estate loans as he deemed necessary.

TITLE IV—FEDERAL CREDIT UNIONS

This title makes a number of technical amendments permitting greater economy and efficiency in the operations of credit unions.

Sec. 401. Permits the purchase of conditional sales contracts and similar instruments of its members.

Sec. 402. Permits overseas suboffices of Federal credit unions to maintain checking accounts in foreign banks with a correspondent relationship with a U.S. bank.

Sec. 403. Removes mandatory entrance fee requirement at directors' discretion.

Sec. 404. Permits an executive committee to act for board of directors in all respects. Permits board of directors to appoint an investment committee or an investment officer to have charge of investments. Authorizes appointment of more than one membership officer.

Sec. 405. Changes semi-annual audit required by supervisory committee to an annual audit.

Sec. 406. Makes Federal Credit Union Act applicable to Trust Territories.

Sec. 407. Exempts Federally insured credit union funds invested in a federally insured central credit union from a premium charge for Federal share insurance.

Sec. 408. Simplifies procedure for federally insured state chartered credit unions to convert to state insured status.

Sec. 409. Permits Administrator to assist in voluntary liquidation of a solvent credit union to the same extent as a credit union in involuntary liquidation.

THE 7:30 A.M. ALLOCATION MEETINGS

(Mr. ROUSSELOT asked and was given permission to address the House for 1 minute and to include extraneous matter.)

Mr. ROUSSELOT. Mr. Speaker, this country is now feeling the full impact of rationing at the wholesale level. The Congress has just given rationing another name by calling it an "emergency allocation plan." Now we are additionally struggling with a so-called emergency energy bill which will provide for and encourage rationing at the retail level.

A January 11, 1974, editorial in the Wall Street Journal has reviewed very thoroughly the inability of any one bureaucrat or group of bureaucrats—no matter how bright and competent they are—to try to perform the intricacies of replacing the allocation of the free marketplace. It cannot be done. So once again we are rationing in the name of "the public good" and "the public interest" to mandate and force the Federal bureaucracy to tinker with the marketplace in hope that this will solve the potential crude oil shortage we are facing as a result of cutoff supplies from the Arabian nations. It won't work, and we should have learned this by all the mistakes and miseries of the wage and price legislation passed by Congress.

I commend my colleagues to observe carefully the admonitions pointed out by the Wall Street Journal editorial. Hopefully, we will be wise enough to read and heed the warnings expressed in this fine article.

[From the Wall Street Journal, Jan. 11, 1974]

REVIEW AND OUTLOOK

Bill Simon, the energy czar, is a brilliant fellow, a bold decision-maker, a leader of persons. He's probably the best man for the job. But at allocating all the energy supplies in the nation, he's incompetent. Anyone else would be too, as we're sure Mr. Simon realizes. Still, he will have to live through the criticism of those who believe that really smart allocators should be able to outperform the marketplace.

It can't be done. The intricate logistics system of the petroleum industry evolved over decades, involving thousands of executives and analysts in the industry who learned by trial and error to accommodate demand with supply, to react effortlessly to minute changes in weather, growth and price by moving their product from here to there.

Now Mr. Simon and a hastily assembled staff are trying to relearn it all in a few weeks, without benefit of price signals. It might have been easier if he had been able to sign up the 250 oil industry executives he had talked of, but Congress banned that on the grounds that they knew too much about the oil business. So Mr. Simon has a bunch of $36,000-a-year, 30-year-old lawyers who gather at 7:30 every morning to order supplies of oil products hither and yon. But before the ink is dry on the regulations they have to write, someone discovers something they haven't thought of. Back to the drawing boards at 7:30 the next morning. Some gleanings from their learning process:

Lesson 163: Giving them X% of a year ago doesn't work. In late 1972 West Texas cotton ranchers harvested a month later than usual because of weather conditions. This season the harvest came early, and allocations didn't give them the propane and diesel fuel they needed; distributors had to allocate against last season's monthly base period. Of course, supply did surge after the harvest, conforming to demand during the 1972 harvest. The ranchers bought up the full allocation as a reserve in case they're caught the same way during spring planting. Some of the young lawyers are worrying about how to stop this "hoarding."

Lesson 213: Trucks and tanks don't grow on paper. A truck stop in West Virginia appeals to FEO for an emergency allocation. FEO agrees and orders Mobil Oil to supply it, apparently because it was Mobil's turn. It turns out Mobil has almost no facilities in

West Virginia and would have to serve that lone truck stop from another state, needlessly burning fuel in the process. Being more realistic than the allocators, Mobil solves the problem by paying another oil company to supply the truck stop.

Lesson 301: An allocation system can *cause* demand. New York City has fewer cars per capita than almost anyplace in the nation. Given the costs, auto use is more work-related than discretionary compared to other cities, so there's less room to cut back. What's more, New Yorkers who used to drive to Vermont or Florida for a week or weekend, tanking up outside the city where gas has been cheaper, are staying at home and putting demands on the city's gas supplies that a year ago would have been met elsewhere. The situation worsens when New Yorkers burn up fuel while hunting for it. So while *national* gasoline supplies are about what they were a year ago, autos are lined up for blocks at New York City stations.

Lesson 374: Under an allocation system, nice guys finish last. Oregon last year was the only state that had a voluntary energy conservation program. It used less fuel than normal, so it must now suffer the worst shortages in the nation as its current allocations are set against last year's base period.

Lesson ? ? ?: Too few cooks spoil the broth, a lesson the office is likely to learn come spring. To get the nation through the winter refiners have been ordered to make more fuel oil at the expense of gasoline; the problem is when to switch back to avoid gas shortages as the weather warms. When 30 or 40 companies have to decide this on their own, some switch too soon and some too late, and on balance things work. With a set of distracted whiz kids making one decision for everybody, chances are there will be a surplus of fuel oil carried into the summer while gasoline stocks are too low.

As the federal allocators learn these lessons and frantically rewrite their regulations after every 7:30 seminar, it isn't the government taking the blame for these distortions. Rather, the petroleum companies, on the front line and visible, are absorbing public frustration and bitterness. Mr. Simon surely knows that allocation's to blame. Yet he won't decontrol petroleum prices, the one absolutely sure way to get this most liquid of commodities flowing to where it's most in demand. If things get bad enough, he says he'll recommend rationing. Then the whiz kids can start all over again with Lesson 1.

INTEREST EQUALIZATION TAX SHOULD BE MADE MANDATORY FOR COUNTRIES WHICH RESTRICT ACCESS TO RAW MATERIALS

(Mr. VANIK asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. VANIK. Mr. Speaker, yesterday, the President reduced the interest equalization tax to zero, thus destroying this balance-of-payments control program.

I seriously question the wisdom of the President's action which terminated a tax designed to reduce the outflow of capital from the United States. Although we have just ended a year in which our balance-of-payments reached a surplus of $1.677 billion, grave economic uncertainty lies ahead.

In view of the sullen economic climate in this country, it is difficult to justify removing controls on capital outflows. We will need capital investment here in this country to meet the demands of an economic slowdown, to develop our own energy resources, to expand industrial production and create jobs. My fear is that massive quantities of American capital will move abroad to develop foreign energy resources instead of our own.

Today's balance-of-payments surplus will shortly dwindle away. A major reason will be the increased cost of energy. Our oil import bill—which was $7 billion in 1973—could grow to $19 billion this year. In addition, since the world energy crisis began, the dollar has been appreciating in value, wiping out much of the effect of last year's devaluation. The result will be increased imports and decreased exports. These factors alone will plummet our balance-of-payments into a deficit for 1974. A vigorous interest equalization tax can help arrest this potentially disastrous situation by eliminating some of the tremendous attractions of foreign investment. We will never gain the goal of energy self-sufficiency as long as we continue the wholesale export of American capital.

With this grim future, the Congress should reconsider the interest equalization tax. I will introduce legislation to extend this capital control mechanism and make it mandatory for investment in countries which restrict American access to raw materials or place a harsh and discriminatory tax on the export of such materials. One of the principles of the Atlantic Charter, signed in 1941, was that after the war, all nations should have "access, on equal terms, to the trade and raw materials of the world." We are now facing a situation where all nations are not being provided equal access— and it is time that we tried to do something about this violation of basic international principles.

I ask my colleagues to join with me in re-examining this important facet of our balance-of-payments program.

AMENDMENT TO INTERNAL REVENUE CODE

(Mr. ROSTENKOWSKI asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. ROSTENKOWSKI. Mr. Speaker, I have today introduced legislation which recommends an amendment to the constructive sales price provision—section 4216 of the Internal Revenue Code—where brand name automotive parts are involved. This legislation is similar to legislation that I introduced in the last Congress (H.R. 10872), which was ordered to be reported by my Committee on Ways and Means on October 13, 1971. The constructive sales price is to be used as a substitute for the actual sales price—the basis for manufacturers' excise taxes—when an article is sold at less than fair market value, if the transaction is not at arm's length, as in the case of a sale to a related company.

While the major impetus for the introduction of this legislation came from one Illinois corporation, it will apply equally to any other company that finds itself similarly situated between the intent of the Congress and the interpretation of the Department of the Treasury.

One of the proponents of this legislation is the Maremont Corp. which is headquartered in my own State of Illinois. Maremont has been engaged for more than 50 years in the business of manufacturing automotive parts for the replacement market. It sells these products to a wholly owned subsidiary, Mar-Pro, Inc., which serves as a national distributor. Mar-Pro in turn resells the products to warehouse distributors and other persons at a wholesale level. The products consist of primarily automotive exhaust system parts—such as mufflers, exhaust pipes, tailpipes and clamps—brake and clutch parts.

Maremont sells these parts to Mar-Pro without brand names. The products are sold by Mar-Pro under various names to purchasers, but the brand names have little or no significant effect on the price of the article. Thus, brand name automobile mufflers, tailpipes, and brake or clutch parts and linings sell for essentially the same prices as such parts sell for in unbranded form.

During the years involved here, Maremont purchased from other unrelated manufacturers a substantial portion of its requirements for finished goods—identical to Maremont's own manufactured items—at prices equivalent to, or lower than, Maremont's selling price to Mar-Pro. The purchases were substantial in volume, ranging from $436,000 to $1,244,000 a year—or from 4 percent to 15.2 percent of Mar-Pro's total requirements.

Accordingly, it seemed clear, and Maremont concluded, that its sales prices to Mar-Pro constituted fair market prices and paid taxes on that basis. Further evidence that these prices were fair, and not artificially low, is indicated by the fact that in 2 of the 8 years in issue, Mar-Pro sustained losses and in three of those years, it just about broke even.

On June 25, 1964, however, the National Office of the Internal Revenue Service gave technical advice to the District Director in Chicago in which it concluded that:

> although the brand name under which an article is sold is of no significance here as such . . . the Service does not consider the prices for which Maremont and its manufacturing subsidiaries sell automobile parts and accessories to Mar-Pro to be fair market price merely because that price is equivalent to the price charged for similar articles sold to private brand vendors.

The national office specifically found "that Mar-Pro Inc., has substance and character and operates in a manner which evidences that it is performing functions separate from those of Maremont, Inc., and its subsidiary manufacturers." Nevertheless, the service further concluded that a constructive sales price should be determined in accordance with Revenue Ruling 62–68, CB 1962–1, 216.

Under Revenue Ruling 62–68, the constructive sales price is 95 percent of the lowest price for which the sales subsidiary resold the article to independent or unrelated wholesale distributors. "This 5 percent margin," the Service stated, "is an allowance for those exclusions from, and readjustments of the selling company's resale price, which, under sections 4216 and 6416, the law

would allow a manufacturer selling in the ordinary course of trade to unrelated distributors." In effect, the Service disregarded the economic existence of a viable selling subsidiary.

The ruling was made expressly nonretroactive, that is, it applied "with respect to sales . . . made on and after July 1, 1962." Notwithstanding this asserted nonretroactivity, the Service has taken the position that Maremont is subject to constructive pricing along the lines of the Revenue Ruling from and including 1958 through 1965—that is, up to the effective date of the repeal of the automobile parts excise tax.

This position has been taken even though prior to Revenue Ruling 62–68 the Service had no published position to this effect.

The taxpayer protested the technical advice and on November 23, 1964 in a letter to Acting Commissioner Harding requested that the Service reconsider its position. The Service agreed to do so. On June 21, 1965, the Congress repealed the tax on parts and accessories for passenger automobiles. On November 4, 1965, the taxpayer furnished additional information to the Service. In the summer of 1971, after nearly 6 years of silence, the Internal Revenue Service affirmed its technical advice to the Chicago District Director.

The basic provision on constructive price was enacted in 1932. It comes into play only if an article is sold "at less than the fair market price." If, as Maremont believes, the manufacturers' price is not less than the fair market price, there is no room for application of a constructive price. But, even assuming that the constructive price provision is properly invoked, the constructive price is the "price for which such articles are sold, in the ordinary course of trade, by manufacturers or producers thereof," section 4216 (b)(1) of the code. Thus, since Maremont's prices to Mar-Pro are equal to or higher than the sales prices for the same articles of other independent manufacturers, the provisions of (b)(1) require that Maremont's prices be recognized. The presence of brand names which have no significant effect on prices is plainly irrelevant.

The service, however, continues to administer the constructive price provisions so as to require legislative action. In the past, the Congress has recognized the need to correct misinterpretations of the constructive price provisions. Thus, paragraphs (3), (4), (5), and (6) have been added to section 4216(b) in the last few years. Only recently, the Congress again affirmed the validity of independent prices as a basis for a constructive price on sales to affiliated corporations, section 4216(b)(4). In these provisions, the Congress has undertaken to clarify the constructive price rules in unmistakable terms, so that there can be no deviation from the intent of the law.

My proposed legislation fits within this recent legislative pattern. Certainly a sales price of a manufacturer to an affiliated purchaser, based on independent sales prices of other manufacturers for the same articles must be recognized, and not disregarded because of the incidental presence of name brands which have no significant effect on the sales price. This result only reflects what is apparent in the statute as enacted in 1932.

WHO REALLY CAUSED THE FUEL SHORTAGE?

(Mr. LANDGREBE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LANDGREBE. Mr. Speaker, I just received from the American Taxpayers Association in the home State of the Speaker almost this very minute a letter flier and I am going to read it fast because I want to get it in within the 1 minute. It says:

WHO REALLY CAUSED THE FUEL SHORTAGE?

WHAT SHORTAGE?

The U.S. Geological Survey estimates that at current rates of consumption we have a 200 yr. supply of petroleum, a 300 yr. supply of natural gas, enough coal reserves for 1500 yrs., the capacity and raw materials to produce an almost inexhaustible supply of nuclear energy.

WHO CAUSED THE FUEL SHORTAGE?

In reaction to the efforts and propaganda of the environmental and ecology radicals, the U.S. Federal Government and Congress:

Stopped the building of nuclear power plants.

Prevented new oil exploration on continental shelf.

Sharply curtailed offshore oil field production.

Delayed construction of Alaska pipeline.

Prevented leasing of oil shale lands for oil exploration and production.

Prevented construction of new refineries.

Restricted use of high sulphur coal.

Restricted strip mining of low sulphur coal.

Put price ceilings on refined petroleum products, causing shortages.

Advocated cutting gasoline production as a remedy to the shortage problem!

Keeps price controls on natural gas at the wellhead, discouraging production.

The above Government regulations and their interference in the economy have created our present energy shortages. What has been termed an energy crisis, could more appropriately be called a political leadership crisis. More Government regulations, added bureaucracy, gasoline rationing, and limitations on profits are not going to create new supplies of energy. Congress can best serve to alleviate these shortages by undoing the mischievous acts they have taken to destroy the free market. If the Government created this energy crisis, then why do we keep insisting on more governmental regulations and programs to resolve it? Should we not be more concerned with a balanced budget, thereby ending inflation which in my opinion, would eliminate the needs for price fixing and thus end existing shortages, not only in energy, but also those shortages in other commodities within the market?

FIFTY-SIXTH ANNIVERSARY OF UKRAINE'S INDEPENDENCE

The SPEAKER. Under a previous order of the House, the gentleman from Pennsylvania (Mr. FLOOD) is recognized for 60 minutes.

Mr. FLOOD. Mr. Speaker, in the annals of history it is most significant that we in this Congress observe and celebrate today the 56th anniversary of Ukraine's independence. At a time when imperialist Moscow's military power continues to expand, its penetrations in the Mideast, South Asia, and elsewhere deepen, and its repressions within its imperium in imperio, known as the Soviet Union, mount daily, the full significance of this memorable occasion will certainly reflect itself in the period ahead. While Brezhnev cultivates his toehold in Cuba, we point to his Achilles heel in the U.S.S.R.

THE ABC'S

The ABC's of this important annual occasion are perfectly clear and unmistakable. First, with a population of 48 million, Ukraine is the largest captive non-Russian nation not only in the Soviet Union but also in Eastern Europe. Its strategic position in both the inner and outer empires of Moscow is primarily crucial. Second, this second largest Slavic nation reestablished its national independence and free statehood on January 22, 1918. It was one of the first to defend its freedom against Soviet Russian imperio-colonialism. Without assistance from the democratic West, it was one of the first to succumb to Russian Communist expansionism. And third, from the twenties to the present this early captive nation has woven an impressive history of resistance to Moscow's imperialist totalitarianism, Russification, and genocidal programs with an unyielding and invincible drive for national independence and freeedom.

HUMAN RIGHTS FOR UKRAINE

Mr. Speaker, one of the most important aspects of our deliberations on the trade reform bill and its relevance to the Soviet Union was the general recognition that the issue of human rights applies not only to the Solzhenitsyns, the Sakharovs, other Russian dissidents, and Soviet Jews but also to the non-Russian nations in the U.S.S.R. In Ukraine, the names of Chornovil, Moroz, Svitlychny, and many others grace the record in the fight for human rights, and most of them are suffering for it in Russian prisons and labor camps. Their voices have been raised in behalf of national freedom, the right to develop their Ukrainian culture, to permit religious freedom, and to exercise rights stipulated in the U.S.S.R. Constitution. In short, their fight has been against the policy of Russification foisted upon not only the people of Ukraine but also those in Lithuania, Latvia, Byelorussia, Turkestan, and other non-Russian areas of the U.S.S.R.

DÉTENTE COURSES OF ACTION

In pursuing the policy of détente there is nothing contradictory in also, as part of the policy, in pursuing this fundamental issue of human rights. Several Members and I have submitted resolutions seeking the resurrection of the Ukrainian Orthodox and Catholic Churches in Ukraine, two basic institutions genocided by Stalin. I am given to understand that our Committee on Foreign Affairs will soon hold hearings on the vital issue. We shall be most appreciative for this, and we are ready to produce

productive testimony on the subject. In addition, it has now been 20 years since this House had established a landmark of investigation into some countries overtaken by Russian domination.

With present détente with the U.S.S.R. and relations with the People's Republic of China, the time is ripe for popular inquiry into the many nations composing those two large empire states. Quite plainly, if we, in détente, are to have more intimate relations with them, our people should know more about them and, in particular, the numerous different nations which constitute these states. It is for this reason that I urge at this time the establishment of a Select Committee on the Nations in the U.S.S.R. and People's Republic of China. In short, if our foreign policy is based on our domestic knowledge and understanding, then this step is most necessary at this time, and this House stands to create another landmark in our annals.

As an indication of the importance of the A B C's described earlier, I append to my statement portions of the commentary recently written by Dr. Lev E. Dobriansky of Georgetown University in the autumn issue of the internationally renowned Ukrainian Quarterly:

UCRAINICA IN AMERICAN AND FOREIGN PERIODICALS

"The Legacy of Stalin," an article by Edmund Demaitre. *The Sunday Star and Daily News*, Washington, D.C., March 4, 1973.

In still another evaluation of Stalin this rendition holds that it isn't Stalinism but the idea of national communism that ranks as his chief contribution. By this the writer means the fusion of communism and Russian nationalism. He states, "After the war, and particularly during the Cold War, National Communism as nurtured by Stalin was to degenerate into outright chauvinism." Great Russian chauvinism as the Chinese say nowadays.

Again, what seems to escape this writer as well as others is that communism was dead long ago as a program for social organization and what has remained is Soviet Russian imperio-colonialism. Quite logically, if it were simply national communism, it would be restricted to ethnic Russia; it would not apply to the non-Russian nations in the USSR and beyond, and without meaning on the global front for Soviet Russian expansionism.

"The Failure of the Soviet Nationality Policy," a review. *East-West Digest*, London, England, January 1973

This outstanding periodical reviews the pamphlet issued by the Ukrainian Congress Committee of America on "Ukrainian Intellectuals in Shackles: Violation of Human Rights in Ukraine." Its verdict is very simply that "It deserves the attention of the Western reader, and especially of those in search for truth and who study the Soviet problems generally."

The pamphlet details the many violations of human rights in Ukraine and the specific victims of these cultural repressions. The problem has been that the USSR is in a weaker position than most people realize and that to press too hard on the Ukrainian issue would not at this time conduce to the eventual strengthening of our position.

"An Open Letter to the American People." The New York Times, The Week in Review, New York, N.Y., Sunday, June 17, 1973

Upon the arrival of Leonid Brezhnev to the U.S. this well-known organ carried a full-page ad publicizing an open letter to the American people. The letter appeared in the widely circulated Sunday issue of the *Times*, and was signed by sixty-six American scholars teaching in our universities and colleges.

The chief theme of the message was in defense of Ukrainian intellectuals. Strikingly featured by photos of victimized and incarcerated intellectuals, such as Valentyn Moroz, Vyacheslav Chornovil and others, the long but concise message itemized the crass violations of human rights in Ukraine.

Much of the credit for the expert composition of the letter goes to Dr. Walter Dushnyck, the editor of *The Ukrainian Quarterly*. The full-page ad was sponsored by the Ukrainian Congress Committee of America. Reactions to the letter from all parts of the country, particularly in Washington, were largely salutary.

"Ukrainians Stage Anti-Soviet Protest," a report by Lawrence Feinberg. The Washington Post, Washington, D.C., May 27 1973

Placed under a telling photo of the Shevchenko Memorial statue surrounded by placards recalling the Russian man-made famine in Ukraine during 1932–33, this report of the rally provides an overall account of the day's proceedings. Some 3,000 Americans of Ukrainian background convened at the statue to commemorate in mournful ceremony the fortieth anniversary of the famine. The famine took at least seven million lives.

The account points out, "But speakers also denounced recent arrests of Ukrainian nationalists in the Soviet Union, and warned that the forthcoming visit to Washington of Leonid Brezhnev should not lull Americans into being less hostile to Communism." This theme was underscored early by Dr. Lev E. Dobriansky, President of the Ukrainian Congress Committee of America, who opened the event. Congressman Edward J. Derwinsky of Illinois elaborated on it further, as did the Honorable Walter Judd and General Thomas Lane. Mr. Joseph Lesawyer, executive vice-president of UCCA, was the master of ceremonies, which wound up in the picketing of the Russian embassy.

"Kremlin Shakeup," an editorial. *The Evening Star and The News*, Washington, D.C., May 3, 1973.

The demotions of Pyotr Shelest and Gennadi Voronov from Moscow's Politburo last spring are the subject of this editorial. Numerous interpretations of the action have appeared in the American media and other sources, but this piece expresses the belief that mystery still beclouds the casual reasons for the event. As it puts the matter, "the mysteries of the closed circle of Russian leadership remain intact and the tea-leaves retain their secret."

In the case of Shelest the editorial observes that he was a "former head of the Ukrainian party, recently attacked in the Soviet press for promoting Ukrainian 'nationalism.'" It is doubtful, to say the least, that Shelest promoted nationalism in the real sense of the word, and the editorial underscores this doubt by placing the term in quotes. What cannot be denied, however, is that the elevation of Grechko, Andropov and Gromyko has strengthened Brezhnev's position in the Politburo.

"Kremlin Divides on 15-Year Plan," an article by Victor Zorza. *The Washington Post*, Washington, D.C., June 12, 1973.

Much of this account is devoted to the widely discussed 15 Years Plan that presumably will be launched in the USSR in 1976. The economic, ideological and other aspects of the projected plan are touched upon here. Economists are coming in for a heavy share of criticism from *Pravada* and other organs in the USSR because of their negative attitude toward it.

What is of relevance is the tie-up of the above action regarding Shelest. As the writer describes it, "But the danger lies not only in the attempts of competing lobbies, such as the military and cvilian, to grab a greater share of the country's resources." He continues, "The Ukraine's party boss Pyotr Shelest has already been purged for asserting 'nationalistic' Ukrainian claims to a greater role in the share-out." This explanation, along with that in improved U.S.-USSR relations, is also subject to doubt.

"Ukrainian Party Shaken by Strife," a report. The New York Times, New York, N.Y., April 23, 1973

This report covers the recent high-level Ukrainian Communist Party meeting in Kiev where charges of "nationalism" and incompetent administration were leveled by Vladimir V. Shcherbytsky, the party leader who last year succeeded Shelest. The latter's name wasn't mentioned, but it was evident that a groundwork was being laid for Shelest's removal from Moscow's Politburo.

It is pointed out that accusations of nationalists trends and incompetence are not unusual in the USSR's non-Russian republics which have resisted the Kremlin in a variety of ways. "However," the report states, "the Ukraine has been a particularly troublesome area in that respect as some Ukrainians have sought to preserve an important role for their language and culture and to reduce the influx of ethnic Russians into prominent posts in industry and administration." Evidently, the economic, political and national issues are interviewed.

"The Mournful Manifestation," a commentary. The Rising Tide, Washington, D.C., June 4, 1973

An excellent and accurate account of the Mournful Manifestation held in May in Washington appears in this outstanding anti-communist periodical. The commentary covers the chief points made by the speakers of the occasion. Thus Dr. Dobriansky is quoted as saying, "It is our bounden duty to inform our fellow Americans of this genocidal act that defies human imagination." The message he read from Senator Javits is quoted as follows: "The heinous acts of the past and the repression of the present—arrest of Ukrainian intellectuals and the ransom of Soviet Jews—cannot be overlooked in a bargain of convenience."

Representative Derwinski stressed, "Let us not be misled by temporary diplomatic maneuvers. These adjustments have been dictated by fear and weakness. There will be no permanent peace unti Communism as we know it disappears." Canadian Senator Paul Yuzyk pointed out, "This must compel us to eternal vigilance. It could happen here." General Thomas A. Lane made the point that Bolshevism is the "declared enemy of God and freedom." And Dr. Walter Judd emphasized, "You appreciate the United States more. . . . You know what things are like. You have an obligation to tell the story. You must never give up. Your weapons are the hearts of a billion behind the Iron Curtain."

"Try It!", an article by Aileen Jacobson. The Washington Post Potomac, Washington, D.C., April 8, 1973.

"Try it!" means simply trying to make Ukrainian Eastern eggs. A whole column is devoted here to parts of the process. The colorful Easter eggs shown in this Sunday magazine are a treat in themselves.

Readers are actually directed to the Country Store in Washington, Virginia for demonstrations in the ancient and religious art. The store is owned by two Washington, D.C. women who took an interest in the endeavor and made it possible for many a reader to visit the store and see how it is done.

"NYT Article on Soviet Nationalities Questioned," a commentary. Elta. Information Service of Supreme Committee for Liberation of Lithuania, New York, N.Y., September 1972.

An article written by Theodore Shabad of *The New York Times* on "Soviet Is Pressing the Blending of Its 100 Nationalities" (July 31, 1972) comes under criticism in this Lithuanian medium. The commentary admits the article's disclosure of much useful information. But it properly raises the question that, as regards terminology, "is it accurate to refer to the Ukrainians or Georgians, Lithuanians, Latvians or Estonians as 'ethnic groups' or 'minorities'? They happen to be nations."

Shabad's paralleling the so-called "ethnic problems" in the USSR with those in the U.S. is also rather off base. The commentary takes the writer to task for his estimate of "great gains in the educational and cultural development of its nationalities." It points to the numerous expressions of cultural repression in most of the non-Russian republics which are being harshly subjected to Russification. It is regrettable how each new generation has to learn anew, but this is life.

"Soviets Hamstring Dissident Publication," an article by Murray Seeger, *The Washington Post*, Washington, D.C., February 20, 1973.

Apropos to the above, this lengthy account describes how intensive police activity in the USSR has thrown the doughty underground newspaper, *Chronicle of Current Events*, off schedule. This publication as well as other *samizdat* media have been targets of the KGB's Soviet Committee of Public Security for over a year.

Referring to Chronicle 26, which came out in July and August of '72 the writer observes, "As usual, that issue also carried accounts of arrests and trials involving Ukrainian nationalists, Lithuanian Catholics, Jews seeking emigration to Israel and artists subjected to political discipline." The KGB was ordered to smash the publication and has operated in an area from Lviv in Ukraine to Novosibirsk in Siberia and Vilnius in Lithuania. And all this constitutes "great gains" in non-Russian educational and cultural development?

"A Limited Agenda," a column by James A. Wechsler, *New York Post*, New York, N.Y., June 22, 1973.

Aside from some supposedly erudite observations made by this columnist—such as "ancient anti-Kremlin crusaders . . . accusing the President of betraying their holy war"—a few items in the article are of positive interest. One is the President's effort to maintain a steady relationship with the rival Communist establishments in Peking and Moscow. The writer, who has never really comprehended the nature and content of the Cold War, feels this attempt "will get high marks in history if it succeeds."

The other item dealt with in this comment on the Brezhnev-Nixon meeting concerns Russian repressions in the USSR. As the writer puts it, "But Jews are not the only victims of despotism." He writes of the political prisoners currently held inside the USSR, including "the Ukraine and Lithuania. . . ." The writer's recommendation that this general matter be discussed at the summit was shared by all students and analysts of the USSR, so-called cold warriors.

"Captive Nations Week in Great Britain," a report. The Ukrainian Review, London, Great Britain, Autumn 1972.

In foreign countries the American institution of Captive Nations Week is upheld and adapted to varied circumstances. Great Britain has observed the Week consistently, though at different times in given years. Under the auspices of the British League for European Freedom, the Week was observed at the end of June last year and is planned for later this year.

As the League expresses it, regardless of the time period this "is held to remind the British people that nations of the so-called Union of Soviet Socialist Republics and other Communist-occupied countries are continually persecuted and enslaved by Russia." The same well-founded theme is annually sounded in the U.S.A., Free Korea, Japan, Free China, South Vietnam, India, Turkey and many other countries.

"On the Occasion of Brezhnev's Visit—American Dissenters Demand Amnesty for Dissenters in Communist Countries," an ad. The New York Times, New York, N.Y., Sunday, June 24, 1973.

Indulgence in speculating about the motivations behind this striking ad in the *Times* is beside the point here. The dominant fact is that the rather strange motley array of signers, some with known Communist backgrounds, has seized upon a pure and powerful issue and, as a consequence, has made a creditable imprint on readers.

Who can rationally oppose this statement in terms of moral intent?—"To resist the inroads on civil liberties in the United States but to remain silent about the suppression of liberties in the Soviet Union and the Soviet bloc, to protest U.S. policies in Indochina but to acquiesce in the Soviet occupation of Czechoslovakia would not only be immoral but would quite properly call into question the sincerity of our commitments at home. As American dissenters we do have a stake in the state of freedom in the Communist world."

Significantly, those imprisoned for "Demanding National and Political Rights in the Ukrainian Soviet Socialist Republic," such as Chornovil, Dzyuba and others, are enumerated and concisely described. Following these, the same is applied to Lithuania, Soviet Jewry, the Russian Soviet Federate Socialist Republic, and Czecho-Slovakia. Whoever prepared this text is quite knowledgeable and fair.

"Stand Up and Be Counted," a commentary by Marilyn Marrion. The Manion Forum, South Bend, Indiana, March 1973.

"This is the story of a man who did what he believed was right," begins this warm and moving commentary. It goes on, "It is written in hopes that the saga is yet unfinished." The story is about Dr. Filimon Kowtoniuk who was ousted from his faculty post at Virginia State College for opposing anti-war demonstrations.

A very concise account is given of Kowtoniuk's background and his patriotic involvement. His application for unemployment compensation has been twice rejected. The commentator rightly concludes, "If he were a Communist like Angela Davis, Professor Kowtoniuk would be in fashion and in demand. As it is, he is penniless and alone. Surely that is not the way things should work in America!" We have no doubt that he will have his opportunity.

"Ukrainian National Republic," a statement by Hon. Joshua Eilberg. Congressional Record, Washington, D.C., March 22, 1973.

Circumstances prevented Congressman Eilberg of Pennsylvania from issuing this excellent statement commemorating Ukrainian Independence Day last January 22, However, its superb content more than makes up for its belated issuance. The statement contains all the historical highlights surrounding the formation of the Ukrainian National Republic in 1918.

Relating to the present, the statement concludes in this vein: "This state of events is unacceptable to lovers of liberty. Thus, while joining with our Ukrainian brothers in commemorating this melancholy anniversary of freedom so briefly enjoyed and so cruelly lost, let us resolve that the day will not be long in coming when the Ukraine will again truly be free."

Mr. MOAKLEY. Mr Speaker, I would like to thank my distinguished colleague from Pennsylvania (Mr. FLOOD) for the opportunity to join today in commemorating the recent 56th anniversary of the proclamation of Ukrainian independence.

Unfortunately, the anniversary of Ukrainian Independence differs measurably from our own celebration.

Ours is a day of unquestioned rejoicing and happiness. The Ukraine's is a bittersweet celebration. It is saddened by the tragic knowledge that freedom so dearly gained, was cruelly stamped out after 2 short years.

It is with the utmost respect and sympathy, that I regard the struggle of the Ukrainian people to regain their short-lived independence from Russia. Since those landmark years, Ukrainians have endured religious persecution, economic exploitation, and genocide.

Yet they have continued their valiant struggle to defend their people, their language, their history and literature, against Russification and annihilation.

America was founded on the notion that individuals have inalienable rights to life, liberty, and self-fulfillment. We feel a kinship to those who share this notion. We feel a great sympathy for those who must still struggle to obtain these human rights.

Inspired by our revolutionary tradition, Tarah Chevshankow, the 19th century Ukrainian poet, fought against imperialist and colonial occupation of his homeland. The monument to him in our Nation's Capital is testament to those special bonds that exist between America and the Ukraine.

The late President Lyndon B. Johnson underscored America's commitment to freedom at home and throughout the world. He told Congress:

> The most important principle of our foreign policy is support of national independence—the right of each people to govern themselves and to share their own institutions.

The current administration's policy of détente must not cause us to lose sight of this worthy aim. Although we long for an easing of global tensions, we must not be so dazzled by détente that we forget the Nation's within the U.S.S.R. struggling to preserve their identify and throw off the Russian yoke.

I believe that we must continue to protest Soviet treatment of minorities, and to give economic teeth to that protest.

For that reason I recently voted to amend the trade bill. My purpose was to withhold "most-favored nation" status from Russia, until they liberalize their immigration policy. As a nation of immigrants, America must remain sensitive to the needs of individuals who seek political and religious refuge outside their homeland.

I voted for and worked to support a bill to finance Radio Free Europe and Radio Liberty. Happily, this bill passed and on last October 19 became public law. It provides over $50 million for its con-

tinued operation. Support of Radio Free Europe and Radio Liberty is an important way Americans can help the struggle of captive nations, who like the Ukraine have no free press.

Another way we can help, is to focus nationwide and worldwide attention on Soviet assaults on minorities and political and intellectual dissenters. Many analysts believe that Alexander Solzhenitsyn continues to be a free man only because the eyes of the world are upon him.

Another way to aid the oppressed and reaffirm our commitment to human rights throughout the world—we must diligently insist that Congress weigh foreign policy in human terms.

Since coming to Congress last year I have joined this fight. My profound concern for basic human rights, prompted me to speak out in defense of Soviet Jews, Vietnamese, and Israeli prisoners of war and for Irish nationalists.

In the same spirit I add my voice to those of my colleagues today. Specifically, I protest the continuous and longstanding Soviet violations, of the United Nation's declaration of human rights. I protest the forcible imposition of atheism on a people with a thousand years of deep Christian tradition. I protest the secret trials, the cruel and inhuman sentences, and other offenses too numerous to detail here.

I mention with deep sadness, that increased national identity, and dissent in the Ukraine, is met by increased Soviet oppression. In this connection I note particularly the widespread arrest of Ukrainain intellectuals in 1965 and 1972.

I feel confident, that the Russians cannot permanently dampen the fire for freedom and independence, that burns in the hearts of the Ukrainian people. It has survived a struggle, centuries old. It has inspired poets and writers of the past. It inspires the youth of today.

I pledge you my continued support of human rights, and join with all here today in reiterating the call for a free Ukraine.

I would like to conclude by reading into the RECORD the declaration issued by the Honorable Kevin B. White, mayor of Boston and the resolution adopted by the Boston City Council:

DECLARATION

Whereas: On January 22, 1974, the Ukrainian people will honor the 56th anniversary of the proclamation of free Ukrainian National Republic; and

Whereas, The 56th anniversary of Ukraine's independence serves to dramatize the legitimate right of the Ukrainian people for freedom and national independence; and

Whereas: Americans of Ukrainian descent call upon our Government and Congress to exercise all the possible efforts to obtain the release of all Ukrainian imprisoned intellectuals and political prisoners who challenged Russian communist oppressive policies in Ukraine;

Now, therefore, I, Kevin H. White, Mayor of Boston, desiring to provide the opportunity for Americans of Ukrainian descent to adequately commemorate the significance of the memorable day, do hereby declare Tuesday, January 22, 1974, as "Ukrainian Independence Day" in the City of Boston, and direct that the Ukrainian National Flag be raised at the City Hall on Tuesday, January 22, 1974, as a symbol of Ukrainian independence and freedom.

KEVIN H. WHITE,
Mayor

RESOLUTION

Whereas, on January 22, 1918, the Ukrainian people proclaimed an independent Ukrainian National Republic in Kiev, capital of Ukraine and many states including the United States of America either recognized or were in process of recognizing the Ukrainian National Republic as the sovereign state of the Ukrainian people; and;

Whereas, as the young Republic started to organize its political, economic and cultural life, it was engaged in costly and bloody war with Communist Russia, despite previous Soviet Russian pledges to respect and honor Ukrainian Independence. In 1921, the Ukrainian National Republic succumbed to the numerically superior forces of Communist Russia and a puppet communist regime was installed in Ukraine, without allowing the Ukrainian people to exercise their voting rights. In 1922, Ukraine was incorporated into the "Union of Soviet Socialist Republics;" and

Whereas, the whole history of Soviet Russian domination in Ukraine is a ghastly record in inhumanity, outright persecution and genocide, Russification and violation of national and human rights. Under Stalin, Ukraine was marked for physical extinction; under Khrushchev, and now under Brezhnev-Kosygin, outright terror has been replaced by the subtle process of destroying the Ukrainian national consciousness and identity through Russification, mass arrests and illegal trials and by other oppressive methods, and

Whereas, in the course of its rule over captive Ukraine, Communist Russia destroyed millions of Ukrainians through man-made famines, and forced deportations to Siberia; it abolished the Ukrainian Autocephalic Orthodox Church; it destroyed the Ukrainian Catholic Church; it subordinated all aspects of Ukrainian life to the rigid control of Moscow, including Ukrainian economy, education, the press, the arts and literature, trade unions and others; and

Whereas, in the last few years, hundreds of Ukrainian intellectuals have been arrested and tried in Communist courts for demanding freedom for the Ukrainian people and for demanding the application of the provisions of the U.N. Universal Declaration of Human Rights in Ukraine. Among those who were sent to long years in concentration camps or psychiatric asylums were: Valentyn Moroz (historian), Vyacheslav Choronovil (literary critic), Svyatoslav Karavanskyi (poet), Yuriy Shukhevych (son of General Roman Shukhevych, commander-in-chief of the Ukrainian Insurgent Army during WW II) Evhen Sverstiuk (literary critic), Leonid Plyushch (noted cybernsticist), Mykhailo Osadchy (university professor), Nina Strokata-Karavanskyi (Microbiologist), as well as hundreds of others.

Therefore be it resolved that we express to our Ukrainian-American people of Boston who have brought a great culture to Boston and who have as God-fearing, hard-working people contributed so much to the welfare of Boston, our genuine concern for all of their people whom they left behind in the "Union of Soviet Socialist Republics" and for all enslaved peoples.

Mr. KOCH. Mr. Speaker, one of the truly admirable facts of American life is the compatibility between cultural diversity and national unity. It is a credit to this Nation that cultural distinctions between ethnic groups are given their due respect. It is also a sign of our worth that we show support for those peoples of the world who do not live in an atmosphere of tolerance and freedom. This is why I am pleased that this House is presently under special orders in commemoration of the 56th anniversary of Ukrainian independence. The people of the Ukraine are living under conditions of cultural and political tyranny that are difficult for Americans to imagine. It is a privilege for me to join my colleagues in honoring these brave people.

On January 22, 1918, the Ukrainian National Republic was officially established as an independent state. Despite the fact that the new Soviet government had recognized the Ukraine as politically sovereign, it was attacked by Soviet forces almost immediately. After more than 3 years of continuous warfare, the republic succumbed to the numerically superior forces of the Soviet Union. Its government was replaced by a Soviet regime and, in 1922, it was incorporated into the Union of Soviet Socialist Republics.

In the following half century, the Soviet Union has not been content with its political absorption of the Ukraine. The most abhorrent aspects of its policy have been the efforts to obliterate the cultural identity of the Ukrainian people. Although it has abandoned the Stalinist tactics of physical extinction, the Soviet government continues to employ the less violent methods of mass arrest, illegal prosecution, and subtle intimidation to destroy Ukrainian national consciousness. Ukrainian life is manipulated by Moscow to prevent any deviation from the dogma of Russian communism.

In November, I spoke in this Chamber of the case of Ivan Dzyuba, a Ukrainian intellectual who was sentenced to a decade of prison and exile for his advocacy of cultural freedom. He is only one of many Ukrainian heroes who deserve tribute.

It must be realized that the tragedy of the Ukraine is but one chapter in the story of Soviet autocracy. Russian repression knows no religious, cultural, or intellectual boundaries. It is repression designed to enforce conformity to a determined set of beliefs. Any groups like the Ukrainians with the courage to assert its own set of truths is met with vicious coercion. I salute the anniversary of Ukrainian independence not only to honor the Ukrainian people, but also because it stands as a symbol of the struggle for freedom of thought by Russian people of many religious and ethnic backgrounds. The glimpse of freedom enjoyed by the Ukraine in 1918 represents the hope of the Russian people in 1974.

Mr. BIAGGI. Mr. Speaker, today it is my pleasure to take part in this special order to commemorate the 56th anniversary of Ukranian independence which was proclaimed on January 22, 1918. Exactly 1 year later the act of union went into effect uniting all Ukrainian ethnographic lands into one independent and sovereign state.

Yet, as it is for so many nations in this region of the world their independence day celebrations are marked with the tragic irony of their present condi-

tions. Soon after its joyous proclamation of independence, the Ukrainian peoples were ruthlessly forced into the stranglehold of the Union of Soviet Socialist Republics. Since that tragic day, the brave, freedom seeking individuals have acquired the respect of all of the peoples of the world through their resistance to total Soviet domination, and their endless determination to taste the fruits of liberty.

The 50 years of ironclad rule by the Soviets over the Ukrainians represents one of the most tragic and inhumane periods in world history. Millions of men, women, and children have been annihilated by virtue of such travesties as man-made famines, and outright executions.

In addition, even the most sacred vestige, religious freedom has been stripped from the Ukrainian peoples. Both the Ukranian Autocephalic Church, and the Ukrainian Catholic Church were destroyed, and their faithful members were incorporated into the Kremlin-controlled Russian Orthodox Church.

Even to this day, all aspects of Ukrainian life are rigidly controlled and directed by Moscow. Arrests, trials and convictions of hundreds of young Ukrainian intellectuals, poets, writers, and literary critics and students are common. They are usually brought up on trumped up charges of "anti-Soviet activity and agitation." Actually, these same people profess loyalty to the Soviet State, but are merely fighting against its abuses, violations, and police rule. Among these prisoners are such noted writers and thinkers such as V. Chornovil, I. Dzyuba, I. Svitlychny, E. Sverstiuk, V. Moroz, L. Plushch, and thousands others.

Mr. Speaker, the tragic and outrageous conditions which the Ukrainian peoples continue to endure at the hands of the Soviet Union once again points up the question of whether the U.S.S.R. can ever be expected to participate in a viable détente with the United States. Our efforts are directed toward the liberation of all oppressed persons, and without the full cooperation of the Soviets, détente will be as much as a dream to us as freedom is today for the people of the Ukraine.

Mr. DERWINSKI. Mr. Speaker, I am pleased to join with my colleague, Mr. FLOOD, in cosponsoring this special order commemorating the anniversary of Ukrainian Independence Day. As the Members are aware, the special order was delayed until today to allow for the heavy legislative schedule of the opening of the second session of Congress.

Fifty-six years ago on January 22, 1918, the Ukrainian nation declared their independence from Communist Russia. But this freedom and independence, to which they had aspired for two and a half centuries, lasted only 4 years as it was soon extinguished by the Soviet regime. As a result, the Ukraine was incorporated as a Socialist Republic in the Soviet Union as though to obliterate from history the previous existence of the Ukraine as a nation. Subsequent Soviet policy, designed to extinguish Ukrainian cultural and spiritual independence, has exacted a heavy toll in human lives and misery by denying national identity to the Ukrainian people. Resistance movements have been countered with Soviet authorized deportation, starvation, and execution.

The Ukraine is one of the richest of the captive nations of the U.S.S.R. The Ukrainian territory, covering 232,046 square miles, is a land possessing tremendous agricultural and industrial resources and boasting a cultural background that is centuries old. No fewer than 74 nations have become independent since the close of World War II, and 55 of them are smaller in size than the Ukraine with only five having more inhabitants than Ukraine's 48,100,000.

There is a so-called Ukrainian S.S.R. holding membership in the United Nations as a controlled vote of the Soviet Union. Legitimate membership of the Ukraine in the U.N. will come only when its people are served by a government of their choice.

During the five decades since the time of the Russian Communist takeover, the Ukrainian people have not given up hope of once more regaining their freedom and independence. They have steadfastly served the cause of freedom by their refusal to resign themselves to enslavement by giving up the struggle despite overwhelming odds. Mr. Speaker, it is appropriate that so many Members of the House join in emphasizing the right of the Ukrainian nation to self-determination so that the Ukrainian people once again regain their freedom and live in peace in their homeland.

REVENUE SHARING FROM OUTER CONTINENTAL SHELF LEASES OF OIL, GAS, AND OTHER MINERALS

The SPEAKER. Under a previous order of the House, the gentleman from Alaska (Mr. YOUNG) is recognized for 5 minutes.

Mr. YOUNG of Alaska. Mr. Speaker, I am introducing a bill today to provide for revenue sharing from Outer Continental Shelf leases of oil, gas, and other minerals.

This bill will distribute the royalties from Outer Continental Shelf lands to the adjacent coastal State, 50 percent; the other States, 25 percent; and the U.S. Treasury, 25 percent.

Federal public lands producing royalty revenues already require royalty revenue distribution to the State on which the lands are located. See 30 United States Code, section 191.

Mr. Speaker, although these minerals are located within Federal lands—the Outer Continental Shelf—the adjacent State provides considerable governmental services to the industries and people engaged in exploration and production. Such State governments must incur substantial expenses in connection with these activities. But they receive no share of the royalties. This is particularly unfair in view of the fact that States on which royalty producing Federal public lands are located share in such royalties.

Mineral exploration, whether it be from Federal public lands or Outer Continental Shelf lands, is really a cooperative venture with private industry, State and local governments, and the Federal Government all lending a hand. Because Federal royalties now are deposited in the general treasury, the adjacent coastal States must bear an unfair burden.

The funds involved are not considerable. The total Outer Continental Shelf receipts, including royalties, bonuses, and rentals for 1969 were nearly $714 million. For 1970, they were nearly $334 million. For 1971, they were over $1,272,000,000. And these figures do not include the very considerable royalties that will accrue after oil and gas production starts on the Outer Continental Shelf in other areas.

My bill will, for the first time, provide that royalties will be shared directly with the other nonadjacent States—inland as well as coastal. It provides a fair revenue sharing formula and will be easily administrable.

I urge the House to consider this concept as soon as possible and avert needless litigation and delay. With the current energy crisis, we can ill afford to delay the development of our Outer Continental Shelf energy potential.

I ask unanimous consent that the bill itself be printed in the RECORD at this point along with a table of Outer Continental Shelf receipts for fiscal years 1955–70.

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

H.R. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress hereby finds and declares that—

(1) all States which contain public lands of the United States within their boundaries receive certain revenues produced from bonuses, royalties, and rentals of such lands in accordance with the Mineral Leasing Act of 1920 (30 U.S.C. 191);

(2) such sharing of revenues is based on the equitable consideration that these States furnish governmental services to the industries and people engaged in the exploration and production of minerals from such lands and accordingly such States are entitled to be reimbursed for such services;

(3) coastal States perform identical governmental services to the industries and people engaged in the exploration and production of minerals from the portion of the seabed, which adjoins each coastal State but to which such States do not have title, yet these States now receive no share of the revenue produced;

(4) coastal States in addition to providing governmental services, are subject to other burdens not financially measurable, such as the risk and the actuality of oil spills, movement of population of low coastal areas where hurricane dangers are greatest, and modification of coastal ecology;

(5) basic justice requires that coastal States should share revenues from the aforesaid portion of the seabed at least on the same equitable grounds on which States with Federal lands within their boundaries now share such revenues with the Federal Government, and

(6) the bonuses, royalties, and rentals of public lands can provide a practical way in which Federal revenue sharing with all States can be accomplished.

SEC. 2. Section 9 of the Outer Continental Shelf Lands Act (43 U.S.C. 1338) is amended to read as follows:

"SEC. 9. DISPOSITION OF REVENUES.—(a) All rentals, royalties, or other sums paid to the Secretary or the Secretary of the Navy under or in connection with any lease on the Outer Continental Shelf for the period beginning

June 5, 1950, and ending with the day preceding the date of the enactment of this subsection shall be deposited in the Treasury of the United States and credited to miscellaneous receipts.

"(b) All rentals, royalties, or other sums paid to the Secretary or the Secretary of the Navy under or in connection with any lease on the Outer Continental Shelf on and after the date of the enactment of this subsection shall be deposited in the Treasury of the United States; and of the amount of the revenues so deposited in each fiscal year which are attributable to the portion of the Outer Continental Shelf adjacent to any State—

"(1) 50 per centum shall be paid by the Secretary of the Treasury to such adjacent State;

"(2) 25 per centum shall be paid by the Secretary, in equal amounts, to each of the several States other than such adjacent State; and

"(3) 25 per centum shall be deposited in the Treasury of the United States and credited to miscellaneous receipts.

"(c) Any moneys paid to the Secretary or the Secretary of the Navy under or in connection with a lease but held in escrow pending the determination of a controversy as to whether the lands on account of which such moneys are paid constitute part of the Outer Continental Shelf shall, to the extent that such lands are ultimately determined to constitute a part of the Outer Continental Shelf, be distributed—

"(1) in accordance with subsection (a) if paid before the date of the enactment of this subsection, and

"(2) in accordance with subsection (b) if paid on or after the date of the enactment of this subsection.".

SEC. 3. (a) Nothing contained in this Act or in the amendments made by this Act shall be construed to alter, limit, or modify in any manner any right, claim, or interest of any State in any funds received before the date of the enactment of this Act, or of any funds held in escrow pending the determination of any controversy as to whether the submerged lands on account of which such funds were received constitute a part of the Outer Continental Shelf.

(b) Nothing contained in this Act or in the amendments made by this Act shall be construed to alter, limit, or modify any claim of any State to any right, title, or interest in, or jurisdiction over, any submerged lands.

BUREAU OF LAND MANAGEMENT—OUTER CONTINENTAL SHELF RECEIPTS, FISCAL YEAR 1955 THROUGH 1970

	Royalties	Total (includes bonuses and rentals)
1955	0	$154,621,764.85
1956	$52,814.63	137,742,374.94
1957	232,342.21	13,178,593.89
1958	830,760.69	15,699,374.58
1959	2,266,484.40	23,830,325.75
1960	2,839,980.97	401,722,186.69
1961	5,588,525.60	51,067,561.98
1962	5,605,230.15	510,198,439.12
1963	7,433,912.55	137,273,981.41
1964	10,640,439.52	152,395,954.32
1965	11,246,201.92	142,502,002.40
1966	86,424,061.11	208,764,843.82
1967	41,107,770.26	785,440,705.67
1968	57,935,108.40	1,082,763,202.32
1969	78,083,889.47	713,912,091.57
1970	113,580,953.89	333,809,071.36
1971	159,914,891.13	1,272,257,326.56
Total	583,771,719.06	6,137,149,774.23

WE NEED INFORMATION ON ENERGY

The SPEAKER. Under a previous order of the House, the gentleman from Illinois (Mr. RAILSBACK) is recognized for 5 minutes.

Mr. RAILSBACK. Mr. Speaker, our country is undergoing rapid change. Perhaps never before have the decisions in Washington more directly affected patterns on national life. This is particularly true in the area of energy legislation. It is clear that to meet the challenge of providing sufficient energy resources, we must have access to all aspects of the present shortage.

Unfortunately, however, right now no one really knows how to measure energy shortages and the impact upon our country. The information-gathering system to date has been, at best, loose and poorly coordinated. An overwhelming amount comes from the petroleum industry, and their projections have gone up and down like a roller coaster over the past several months. This makes it difficult to plan for the future. It also makes some Americans question the reality of the oil shortage.

Time after time, when I have held office hours back in my district, I have been approached by constituents who are confused by all the conflicting information they read and hear. Frankly, I am just as frustrated as they are, and for that reason I yesterday joined Congressman MADIGAN and several of my colleagues in sponsoring legislation to require oil producers, refiners, and distributors to provide all information requested by the Federal Energy Administration. The auditing of such information will be authorized by the General Accounting Office.

This reporting requirement for the oil firms is desperately needed to assure the accuracy of FEO's estimates of energy supplies and shortages, and will be very valuable in the preparation of fuel programs and policies.

I hope this legislation, H.R. 12352, will receive immediate and favorable consideration by the Interstate and Foreign Commerce Committee.

DR. VINCENT C. McKELVEY

The SPEAKER. Under a previous order of the House, the gentleman from Pennsylvania (Mr. MCDADE) is recognized for 5 minutes.

Mr. MCDADE. Mr. Speaker, in these troubled times there are few words of praise written about the Federal Government or any of its employees. So it seems particularly meaningful when we can take the opportunity to cite an unusually dedicated and brilliant scientist and Government administrator who has been honored for his work. I am referring to Dr. Vincent C. McKelvey, Director of the U.S. Geological Survey.

Dr. McKelvey was recently named as one of five winners of the 1973 Rockefeller Public Service Awards given annually in recognition of "distinguished service to the Government of the United States and to the American people." He was chosen specifically in recognition of "sustained, distinguished service to our Nation in the broad field of government activity designated Physical Resource Development and Protection."

The award, administered as a national trust by Princeton University's Woodrow Wilson School of Public and International Affairs, represents the highest privately sustained honor for the Nation's career services in five spheres of Federal Government operations. Thus, the awardees are very special people. They reflect not only individual achievement but also a level of competence and dedication common through many levels of government but often remaining largely unnoticed.

The Nation is deeply troubled about our energy and materials shortages. Many feel that we lack an effective and unified national policy and the leadership to solve these problems. We shall be sorely tested now and in the far future as to our ability to solve our environmental resource problems. But in assessing our problems, and in planning to solve them, we can be comforted in the knowledge that we have such public servants as Dr. McKelvey to help guide us toward our fateful decisions.

Dr. McKelvey is the fifth U.S. Geological Survey scientist to be granted this award since the first awards were established 21 years ago. This, says much about the level of competence and dedication of the Survey, the Interior Department's major scientific "arm." Other USGS scientists honored include the late Dr. William T. Pecora, himself a former Survey Director who rose to the post of Under Secretary of the Interior Department, and who contributed so much toward a better understanding of our national environmental and natural resource needs; Dr. Thomas B. Nolan, also a former USGS Director; Dr. Luna Leopold, former chief hydrologist; and Dr. Joseph Upson, retired research hydrologist.

Dr. McKelvey, 57, is a native of Huntingdon, Pa., and a career research scientist with the U.S. Geological Survey since 1941. He was sworn in as the Survey's Director on December 8, 1971, following original recommendations of the National Academy of Sciences, nomination by President Nixon, and confirmation by the Senate.

He received his B.A. with honors in geology from Syracuse University in 1937, and his M.A., 1939, and Ph. D., 1947, from the University of Wisconsin.

Dr. McKelvey gained international recognition for his investigations into problems related to the geology of phosphate deposits, long-range energy and mineral resource needs, and particularly in recent years, for his analyses and assessments of seabed resources of the world. He is the author of numerous scientific articles dealing with the geology of manganese, phosphate, uranium, mineral and fuel resources, marine resources, methods of estimating reserves, stratigraphy, sedimentation, and mineral economics.

During his career with the U.S. Geological Survey, McKelvey's special assignments have included: Consultant to Chief of Engineers, Manila; Minerals Specialist, Jordan; U.S. representative and adviser to the Energy Committee of the Organization for Economic Cooperation and Development; U.S. representative to

Government Advisory Committee on Energy and Minerals, United National Resource and Transport Division; and adviser on phosphate exploration, Saudi Arabia; leader, Department of the Interior Study Group, OCS oil, gas, and sulfur leasing policy. He has been a representative of the United States to the United Nations Seabeds Committee since its inception, and with USGS colleague, Dr. F. H. Wang, has compiled a set of maps showing the world distribution of seabed minerals.

McKelvey is the recipient of the Department of the Interior's highest award—the Distinguished Service Award, 1963. In 1968, he was the American Institute of Mining Engineers Henry Krumb Lecturer on subsea mineral resources, and in 1971, gave the Seventh McKinstry Memorial Lecture at Harvard University. In 1972, he was granted the National Civil Service League Career Service Award for Sustained Excellence.

McKelvey's professional affiliation include: American Asssociation for Advancement of Sciences; American Geological Institute, member of council 1969–72; Society of Economic Geologists, member of council 1967–70; American Geophysical Union; Economic Geologic Publishing Co., member of board of directors; Geochemical Society; the American Institute of Mining Engineers; and the Americal Association of Petroleum Geologists.

Recently, under Dr. McKelvey's guidance, the Geological Survey completed a comprehensive assessment of the Nation's mineral resources. The assessment Dr. McKelvey said, provided some sobering implications. He said:

> The fact is that the future drain on our mineral supplies will become enormous. Even with a leveling off in growth of per capita consumption, it will be necessary to build a "second America" within the next three decades in the sense of having to duplicate or replace the physical plant built during all our history. Most of the raw materials needed for constructing such an undertaking will be drawn in large measure from resources that are now only sub-economic, or not even discovered.

Dr. McKelvey went on to say that the compelling need for minerals is also matched by environmental problems. He pointed out:

> For many minerals our future production will depend on the mining of huge volumes of low-grade ores with adverse environmental impact unless we exert great care in their extraction and use.

Such words show that Dr. McKelvey understands the dimensions of the environmental-resource dilemma in which the Nation is embroiled. With the expertise of Dr. McKelvey and his colleagues, we can move toward a "second America" with confidence and purpose.

IN BEHALF OF OUR MIA'S

The SPEAKER. Under a previous order of the House, the gentleman from Alabama (Mr. EDWARDS) is recognized for 5 minutes.

Mr. EDWARDS of Alabama. Mr. Speaker, we are all aware of the inhumane, indefensible response on the part of Hanoi to efforts to account for the over 1,000 American servicemen who are still missing and unaccounted for in Southeast Asia. North Vietnam and the Vietcong have consistently failed to comply with article 8B of January 27, 1973 Agreement to End the War and paragraph 8E of the joint communique of June 13, 1973, both of which require cooperation in gaining information about parties missing or killed in action.

While at the Pentagon recently, I again brought this matter up. Officials assured me that in spite of the shooting down of an unarmed helicopter by the Vietcong in December, killing an American Army captain, they will not abandon their efforts to account for all Americans. Certainly we must continue to push for full information and disclosure of the fate of these brave men.

Mr. and Mrs. James F. Graham of Mobile, Ala., are parents of Capt. Allen U. Graham, USAF, who has been missing in North Vietnam since October 17, 1972. The following is their description of this situation:

> Because several hundreds of our former prisoners of war (POWs) and missing in action (MIAs) were returned to us, many Americans hold the mistaken impression that the POW–MIA problem no longer exists. Nothing could be further from the truth. There are still 33 men from Alabama alone unaccounted for.
>
> Here are some of the hard facts of the issue: (1) Few of our "missing" were included among those men who were returned; (2) More than 50 of those who were known to be prisoners of war also were not returned; (3) Sixty of our men that the other side claimed had "died in captivity" are still buried in alien soil. Not one body has yet been sent home to the man's family; (4) Our search and inspection teams which were supposed to be allowed entry into all areas of Southeast Asia where our men were last seen alive, have so far been permitted to examine only a handful of such sites—all in South Vietnam.
>
> The National League of Families, of which we are members, has prepared a fact sheet detailing some of the information about our missing men. We are enclosing a copy in the hope that you will find it of enough interest to write an editorial on the subject, and that it will also prompt you to want to provide further news coverage on the progress or lack of progress our government is making in its efforts to account for these missing men.
>
> Our son graduated from McGill Institute and the University of South Alabama. He is the only alumnus of the university that is MIA. He taught at Davidson High School before entering the service. His wife, Susan Wilson Graham, is a graduate of Spring Hill College. She and their four-year-old daughter Nicole live at present in Columbia, S.C.
>
> We cannot help but believe that many of our fellow citizens would be genuinely concerned about his fate and about the fate of the other Americans who are still missing if only they knew the facts. January 27 is the anniversary date of the peace agreement.

Mr. Speaker, I concur fully in the good points set out by the Grahams. The United States must increase economic and diplomatic pressure on North Vietnam, and we must never stop until we have a full accounting. These American servicemen performed an indispensable service to our Nation in time of need. We must not and cannot be satisfied until we fully know their fate.

DAYLIGHT SAVING A MISTAKE

The SPEAKER. Under a previous order of the House, the gentleman from Maryland (Mr. BAUMAN) is recognized for 5 minutes.

Mr. BAUMAN. Mr. Speaker, last November 27, as concern over the energy crisis produced a strong urge in the Congress to take some sort of quick action to begin to deal with the problem, we passed a measure putting the country on year-round daylight saving time. While I had reservations at that time, the overwhelming majority of House Members approved the bill, and it took effect early this year.

But in the few short weeks since daylight savings time took effect, it has become obvious that the move was ill-advised, and that the advantages gained do not outweigh the increased danger which it presents for schoolchildren in my district in Maryland, and throughout the country. The higher incidence of accidents involving schoolchildren in the predawn hours has been far too great a price to pay for the miniscule energy savings received. If even one child loses his or her life while we are trying to save 1 percent of our energy or less, the price is too high.

Therefore, I am today introducing a bill to repeal the law placing the Nation on year-round daylight saving time, and I ask the support of the majority of the Members of this House.

CHINA ON TAIWAN RECORDS RECORD ECONOMIC YEAR

The SPEAKER. Under a previous order of the House, the gentleman from California (Mr. LEGGETT) is recognized for 30 minutes.

Mr. LEGGETT. Mr. Speaker, last September I had the honor to inform this body of the establishment of the United States-Republic of China Conference Group. Composed of distinguished members from the public and private sectors, the Group was dedicated to the strengthening of the traditional friendship between our two countries and the expansion of understanding and exchange in all areas of mutual interest—business, education, trade, culture, science, relations at all levels. The conference group proposed to work through reciprocal organizations in each country to plan and encourage meetings, publications and other activities designed to accelerate and deepen the currents of our bilateral cooperation.

I am happy to report that the efforts of the conference group have moved foreward encouragingly. I am hopeful we will be able to announce a first annual meeting of the group shortly.

In the interim I continue to enjoy close communication with friends and associates in Taiwan. Just today, I had the privilege and pleasure to entertain at luncheon, together with a number of my colleagues in the House, a distinguished visitor from the ROC—His Excellency, Cheng Tsang-Po, Deputy Minister of Information and member of the Legislative Yuan. I was delighted to hear from him of the impressive economic and social progress which the ROC continues to

make at unparalleled levels of achievement. I would like to note briefly for the benefit of my colleagues some of the most recent evidence of this remarkable success story.

Economically, 1973 was the most successful year of growth in the history of the Republic of China. According to the Chinese Information Service GNP grew by 12.3 percent in constant prices. This achievement caps a decade of rapid modernization and industrialization during which the economy of Taiwan has expanded by an average of more than 10 percent annually in real terms. Few countries in the world today can match this record. How happy we in the United States would be if we could make a similar claim.

With its great advancement, the Republic of China has become one of the major trading countries of the world, at the top among developing nations. Its burgeoning foreign trade, which rose 48 percent in 1972, increased again a phenomenal 50 percent in 1973 to $8.3 billion. With its exports now composed of 85 percent of industrial goods, total ROC exports rose to $4.5 billion in 1973, giving Taiwan a net favorable balance of trade for the year in excess of $680 million. Fed so well, foreign exchange reserves in Taiwan stood at a robust $1.87 billion at the end of September 1973.

Equally as impressive as this macroeconomic data is the impact of this progress in social, human terms. Per capita GNP for Taiwan's 15 million people which stood at only $103 just 20 years ago, had risen to $372 in 1972. This past year it surged sharply to $467 by year end.

And this is no empty figure. The people of Taiwan are sharing fully in the benefits of their expanding economy. To take but one telling example, today nearly 9 out of every 10 families in Taiwan's capital own television sets. This illustrates an important, almost unique ROC achievement among developing countries. Whereas most countries of the third world have seen rapid industrialization lead to a worsening disparity between the incomes of rich and poor, Taiwan has insured that the benefits of growth and change are more evenly distributed. Twenty years ago the wealthiest 20 percent of the population of Taiwan had average family incomes 15 times higher than the poorest 20 percent. Today that disparity has dropped to only 5 to 1 and continues to decline.

Prosperity at home has been an important contributor to the exemplary domestic stability enjoyed by the ROC. In turn, this stability, the industry and dedication of the Chinese people, has been the foundation of Taiwan's economic upsurge. This atmosphere is due in no small measure to the enlightened and effective leadership of Taiwan's Premier, His Excellency Chiang Ching Kuo. Since taking office in May 1972, Premier Chiang has shown unsparing concern for the human equation, bringing native Taiwanese increasingly into government, traveling extensively to meet the people and get their views firsthand.

The fundamental strength and momentum of the Taiwan economy leave little doubt that expansion will continue despite the global economic dislocations of the past year, albeit probably at a reduced rate. Taiwan, which imports 97 percent of its oil needs, will, like all oil importing countries, have to pay the price of higher energy costs, but it appears to have assured adequate supplies. It will be the victim, too, of imported inflation in other areas as costs around the world continue to rise. But these are problems endemic in the world as a whole. There is no reason to believe, even if the world economy slows down, that the ROC's relative position among the fastest growing economies will not remain the same.

It is important to remember that Taiwan's economy has already overcome serious international obstacles. The last several years have involved difficult political and diplomatic setbacks for the Republic of China. Yet despite these difficulties, Taiwan has been successful in strengthening its informal relations and expanding its economic ties. The absence of diplomatic recognition has not impeded trade. A number of the ROC's most important trading partners are countries with which there are no diplomatic relations but which remain anxious to receive the economic benefits of free and open commerce. In 1973 the ROC appears to have stabilized its diplomatic relations with other states. I am confident that its fundamental ties with other countries will continue to develop. I am optimistic that growing political realism will lead to a turn-around in Taiwan's political relations as well.

Mr. Speaker, if the ROC has become a beacon of progress for other developing countries to look toward, it also stands as a shining example of U.S. assistance successfully employed and, equally as important, brought to an end when its objectives have been achieved. Today the United States continues to play a role in the ROC success story but now as a friend and equal and no longer paternalistically as in the old aid-donor days. The United States remains the principal trading partner with Taiwan, but on strict commercial terms. In 1973 we took 37 percent of ROC exports and provided 25.1 percent of its imports, at a total value of $2.6 billion in trade both ways. U.S. investors share importantly in Taiwan's industrialization and remain confident in the Republic's future. More than $66 million in U.S. private investment proposals were approved by the ROC in 1973 alone, bringing the total of U.S. private investment proposals approved to over $390 million. These relations are based on the hard currency of mutual self-interest, bringing to the people of both our countries.

Notwithstanding these mutually beneficial ties, there is growing concern in Taiwan and the United States that the developing détente between the United States and Mainland China will inevitably lead to a rupture between the United States and ROC. There is no reason why this need be true.

I have fully supported the initiatives we have made toward a rapprochement with the People's Republic of China. To do less would have been foolish and unrealistic. It would also be unrealistic to believe that the move toward détente will not continue. Both powers stand to benefit substantially from improved relations, both appear to recognize this and seem disposed to move ever closer in a gradual and careful, step-by-step process over the next few years.

To recognize and support this process, however, is not to say that closer relations with the mainland must put greater distance between the United States and the Republic of China. Our Government has given assurances that our new relationships will not be achieved at the expense of our friends. Our treaty commitments with the ROC including the Mutual Defense Treaty of 1954 remain in force. Our relationships have matured from the early days of dependency into multiple patterns of close cooperation based on mutual benefit. Our friendships have gained the immutable strength of time.

Both the Republic of China and the United States have evidenced the firmness and flexibility to avoid false frictions and focus on fundamentals in our relationships. I am confident that with some care and patience on both sides, the close, cooperative and mutually beneficial relations between our two great countries and peoples at all levels will continue to flourish. It is the goal of the United States-Republic of China Conference Group to further these fundamental and enduring ties.

CONSIDERATION FOR THE VICTIMS OF CRIME

The SPEAKER. Under a previous order of the House, the gentleman from Texas (Mr. GONZALEZ) is recognized for 5 minutes.

Mr. GONZALEZ. Mr. Speaker, crime in our country has increased in the last decade, and has been the major concern of the majority of our citizens. As crime has increased we have found more studies being done on the causes of crime and how best to rehabilitate the criminal.

Unfortunately, I believe that a very serious aspect of the crime problem has been overlooked, and that is consideration of the victim of crime. For him society has failed in its duty to protect him, and a state which forbids our going armed in self-defense cannot disavow all responsibility when it fails to protect its citizens.

The concept that society has an obligation to help meet the needs of victims of criminal violence arose almost 4,000 years ago, and I believe that it is time it again becomes a part of statutory law.

The code of Hammerrabi of ancient Babylonia (c. 1775 B.C.) evoked communal responsibility for certain crimes where it was possible to place individual blame. "If a robber has not been caught," the code specified, "the robbed man shall declare his lost property in the presence of the god and the city and governor in whose territory and district the robbery was committed shall replace him for his

lost property." In addition, the code ordered that "if it was a life that was lost, the city and governor shall pay one mina of silver to the heirs."

If the Babylonians had a system of compensating victims of criminal acts surely our society, which prides itself on its civilized nature, should have such a system.

In the 16th century, Jeremy Bentham noted the plight of the victim of crime and suggested this rationale for compensation: Has a crime been committed? Those who have suffered it, either in their person or their fortune, are abandoned to their evil condition. The society which they have contributed to maintain, and which ought to protect them, owes them, however, an indemnity, when its protection has not been effectual.

A number of foreign countries have compensation programs including New Zealand, England, and Canada. New Zealand was the first to inaugurate such a program in 1963. England's program was developed the following year and by December of 1968, it had made some 12,000 awards.

In the United States we have had a number of States enact laws compensating victims of crime. California was the first State to develop such a program in 1965. Subsequently, crime victim compensation statutes were enacted in New York in 1966. Hawaii and Massachusetts in 1967; Maryland in 1968; Nevada in 1969; New Jersey in 1971 and most recently Rhode Island, Alaska and Louisiana.

Today I am introducing legislation that will compensate victims of certain crimes. I believe that it is time for the Federal Government to assume its obligation to come to the aid of victims of crime by offering them some type of monetary compensation.

My bill is based on title I of the Victims of Crime Act of 1973, which passed the Senate in the last session, but I have made several changes which I feel are necessary.

The bill as it passed the Senate establishes a Federal program but only for crimes that take place within the Federal jurisdiction. My bill will compensate victims of both State and Federal crimes.

I feel that we should have a uniform code for compensating victims and the most efficient, and least costly, would be to have one Federal program that would provide compensation in an offense against the laws of any State or of the United States, as opposed to a Federal program or individual State programs receiving Federal funds.

My bill, as well as the Senate version, establishes an independent Federal Violent Crimes Compensation Board for the purpose of providing compensation to two categories of individuals—victims and intervenors—or the surviving dependent or dependents of such individuals. A victim is a person who is killed or who suffers personal injury where the approximate cause of such death or injury is violent crime. An "intervenor" is a person who goes to the aid of a policeman or a victim to prevent a violent crime or to apprehend a suspect. Of course, the purpose of including the intervenor in this bill is to encourage third parties to assist their fellow citizens and to aid law enforcement officials. If people know they will have an opportunity to be compensated if they are harmed in aiding a victim of crime or a law enforcement officer, I believe many people would be more likely to get involved.

Another area where my bill differs from the Senate version is in the area of compensation. The Senate bill provides that a victim cannot recover unless he can show financial stress. I have eliminated financial stress as a condition precedent to recovery as I believe it could cause harsh results to the victim who does not quite suffer financial stress but who does not have an income in an amount sufficient to absorb his losses.

I believe it is better to consider the standard of living of the victim. That is, to determine whether with this standard being reduced coupled with the consideration of the extent and permanence of the injury and the depletion of the victims personal income, will he be relegated to poverty or near-poverty conditions and will his family be forced to bear the burden of this financial situation.

Many people in our country are working for programs to rehabilitate criminals and are trying to get society to look on these people with compassion. I believe a bill such as my bill will encourage this feeling in our country and the following quote from English penal reform, Ms. Margaret Fry supports this:

A rational system of correction can only be achieved when victims, satisfied financially, no longer press for revenge but rather favor rehabilitation.

I hope that every Member will lend his support to my bill, and hopefully compensation for victims of criminal acts will be available to Americans before this year has ended.

CPA AT USDA II

The SPEAKER. Under a previous order of the House, the gentleman from Florida (Mr. FUQUA) is recognized for 5 minutes.

Mr. FUQUA. Mr. Speaker, a subcommittee on which I serve is now considering three proposals to create a Consumer Protection Agency. These are H.R. 14 by Congressman ROSENTHAL, H.R. 21 by Congressmen HOLIFIELD and HOLTON, and H.R. 564 by Congressman BROWN of Ohio and myself.

Of these only the Fuqua-Brown bill would withhold from the CPA the power to obtain court review of the actions of other agencies such as the Department of Agriculture.

Yesterday I inserted a listing supplied me by the USDA of those rulemaking proceedings it engaged in in 1972 which would have been subject to this extraordinary CPA power. The great volume of proceedings and activities of the USDA precluded listing all of them in one RECORD insertion.

Mr. Speaker, I now insert in the RECORD the reply of the USDA listing those adjudications proposed or initiated by the Department in 1972 which could have been subject to the provisions of these CPA bills:

REPLY OF THE USDA

Question 3.—Excluding proceedings in which your agency sought primarily to impose directly (without court action) a fine, penalty or forfeiture, what administrative adjudications (including licensing proceedings) subject to 5 U.S.C. 556 and 557 were proposed or initiated by your agency during calendar year 1972?

Answer—

1. Three (3) proceedings to obtain cease and desist orders for violation of the Commodity Exchange Act (7 U.S.C. 1 *et seq.*).

2. Proceedings to obtain cease and desist orders for violation of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 *et seq.*), as follows:

Packers	22
Market agencies	17
Livestock dealers	6
Total	45

3. Twenty-one (21) proceedings on petitions of handlers subject to marketing orders promulgated pursuant to the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*). These proceedings are initiated by such handlers, rather than the Department, by filing petitions under section 8c(15)(A) of the Act (7 U.S.C. 608c (15)(A)), but they are formal adjudications under the Administrative Procedure Act.

Question 4.—What adjudications under any provision of 5 U.S.C. Chapter 5 seeking primarily to impose directly (without court action) a fine, penalty or forfeiture were proposed or initiated by your agency during calendar year 1972.

Answer.—

1. Thirteen (13) proceedings to obtain cease and desist order and penalty, such as denial of trading privileges on a contract market or suspension or revocation of registration of futures commission merchant or floor broker, for violation of the Commodity Exchange Act (7 U.S.C. 1 *et seq.*).

2. Proceedings to suspend registrations of livestock market agencies and dealers for insolvency or violations of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 *et seq.*), as follows:

Market agencies	14
Livestock dealers	33
Total	47

3. Twenty-two (22) proceedings to suspend or revoke the licenses of commission merchants, dealers or brokers for violation of the Perishable Agricultural Commodities Act (7 U.S.C. 499a *et seq.*).

4. One (1) proceeding to refuse to renew a license to inspect grain under the United States Grain Standards Act (7 U.S.C. 71 *et seq.*).

5. Three (3) proceedings to revoke license to manufacture biologics under the Virus-Serum-Toxin Provisions (21 U.S.C. 151 *et seq.*).

Question 5.—Excluding proceedings subject to 5 U.S.C. 554, 556, and 557, what proceedings on the record after an opportunity for hearing did your agency propose or initiate during calendar year 1972?

Answer.—This Department conducts a number of proceedings which are not subject to the provisions of 5 U.S.C. 554, 556, and 557 but in which opportunity for a hearing is afforded. Most of these are initiated not by the Department but by an individual or firm outside the Department, such as by filing a complaint for damages against another individual or firm subject to the jurisdiction of the Packers and Stockyards Act. Although not literally within the scope of the request under Question 5, they are listed anyway since it would appear they may fall within

the general language of several of the bills (see, *e.g.*, section 204(a) of H.R. 14 and section 103(a) of H.R. 564).

1. Approximately 475 proceedings for reparations (damages) under the Perishable Agricultural Commodities Act (7 U.S.C. 499a *et seq.*).

2. Approximately 68 proceedings for reparations (damages) under the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 *et seq.*). (Approximately 720 complaints were filed with or made to the Department. The 68 listed represent those that were actually docketed for a possible decision.)

3. Proceedings under regulations (7 CFR Parts 780, 790, and 791) for review of producer's complaint about decisions concerning his compliance with program requirements, as set forth below. These cases are initiated by producer complaint to the county ASCS committee. In some cases the county committee will recommend relief which will be reviewed by the State ASCS Committee and the Deputy Administrator of ASCS in Washington. If the county committee denies relief, the producer may appeal through the same procedure. The number of complaints filed with the county committees in any one year numbers in the thousands; therefore, only those cases which are appealed to the Deputy Administrator, ASCS, are listed here.

a. Failure to fully comply (407 cases).
1. Feed Grain Program (219).
2. Wheat Program (121).
3. Cotton Program (40).
4. CAP (27).

b. Misinformation—Misaction all programs (332 cases).

c. Program appeals concerning payments, noncompliance, division of payments, payment limitations, timely enrollment, improper certification, set-aside quality, failed acreage credit, etc. (256 cases).
1. Feed Grains (105).
2. Wheat (23).
3. Cotton (45).
4. CAP (6).
5. Milk (2).
6. REAP (31).
7. Sugar (2).
8. Tobacco (9).
9. CCC-loan payments (6).
10. Beekeeper (14).
11. Wool (2).
12. Reconstitution (farm definition) (8).
13. Peanuts (3).

Total (a, b, and c) 995.

4. Approximately 65 proceedings for review of producer's complaint concerning his farm marketing quota under the Agricultural Adjustment Act of 1938, as amended (7 U.S.C. 1361–1368).

5. Sixteen (16) proceedings for suspension or revocation of accreditation of veterinarians under various Animal Quarantine laws and regulations and rules of practice (9 CFR Parts 161 and 162).

6. Forty-four (44) appeals (all classes) docketed with the Board of Forest Appeals.

7. Thirty-five (35) appeals docketed with the USDA Board of Contract Appeals.

8. One (1) proceeding to deny inspection service under the Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1621 *et seq.*).

ENERGY CRISIS BLAMED BY AIR CARRIERS ELIMINATING AIRPORT SERVICE

The SPEAKER. Under a previous order of the House, the gentleman from Illinois (Mr. MURPHY) is recognized for 5 minutes.

Mr. MURPHY of Illinois. Mr. Speaker, the House is grappling all this week with proposals to deal with the energy crisis and apply reasonable standards for distributing its burden among all segments of our society. I have my doubts about the existence of this crisis and abhor the advantage being taken of the shortages by industries whose 1973 profit margins far exceed acceptable levels.

It is thus appropriate that I reintroduce a bill this week which questions the right of air carriers to discontinue service due to fuel cutbacks. I first introduced the bill before the Christmas recess and now include several of my colleagues as sponsors: Mr. MADDEN, Mr. KLUCZYNSKI, Mr. GRAY, Mr. ROSTENKOWSKI, Mr. DERWINSKI, Mr. METCALFE, Mr. THONE, and Mrs. COLLINS of Illinois.

The legislation amends section 401(j) of the Federal Aviation Act of 1958 to prevent an air carrier's suspending service unless the suspension was approved by the Civil Aeronautics Board after public hearings. The provisions of the bill apply to discontinuances of service occurring after December 31, 1973.

Although the legislative language is general, the sponsors' intent is quite specific. Recent decisions by air carriers to withdraw sheduled flights from Chicago's Midway Airport have had a devastating effect. The announcement of the impending withdrawal came only weeks in advance of the actual withdrawal and, coincidentally, a week before Congress adjourned for a month-long Christmas recess.

The city of Chicago has petitioned the CAB to reconsider its decision. City officials argue that Midway's existence saves fuel and does not create a drain on existing fuel levels. The officials note, however, that studies corroborating these facts are never alluded to by the airlines.

When the decision to withdraw was made by the first air carrier it was expected that the airline fuel allocation would be between 75 and 85 percent of the 1972 allocation. Chairman Timm, of the Civil Aeronautics Board, noted that if the fuel situation changed, the Board would consider further discussions about the discontinuance of service into Midway.

The administration agreed in late December to permit the airlines to use 95 percent of the 1972 fuel allocation, but no effort has been made by the CAB to renew discussions in light of the airlines' improved fuel situation.

As I have repeatedly said during the past few weeks, Chicagoans deserve a suitable explanation for the air carriers' decisions. A public forum is essential if we expect to air the grievances of all sides and answer the charges and counterchanges which have been leveled. It may in fact be decided after public hearings that the air carriers' decision is in the "public interest" and does not affect the safety of passengers or make service to the area less than adequate. The air carriers and the Civil Aeronautics Board have nothing to lose, but they do have the confidence of the people to regain.

I have heard charges that the people in the area served by Midway do not object to the withdrawals of service. I submit the following resolution from a vital community organization, the Beverly Area Planning Association, as evidence that Chicagoans oppose the withdrawals:

Whereas Midway Airport is a vital link to the economic well-being of our community; and

Whereas the Executive Committee of the Beverly Area Planning Association did vote to support all efforts to reinstate flight services at Midway Airport; and

Whereas the Commercial Airlines are by their decision to withdraw services from Midway causing extensive fuel wastage rather than any conservation of fuel; and,

Whereas Congressman Morgan Murphy of our area is making every attempt to encourage Federal Regulatory Agencies to reinstate flight services at Midway Airport; now therefore, be it

Resolved, That the Council of Delegates of the Beverly Area Planning Association does hereby go on record in support of Congressman Murphy's efforts, and instructs the president of the association to so inform the Congressman.

I now include the text of my bill for an appraisal by my colleagues:

H.R. —

A bill to amend section 401(j) of the Federal Aviation Act of 1958 to provide that no air carrier shall discontinue service, in whole on in part, unless such discontinuance is found to be in the public interest by the Civil Aeronautics Board after public hearings

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 401(j) of the Federal Aviation Act of 1958 is amended to read as follows:

"Application for Abandonment or Discontinuance

"(j) No air carrier shall abandon any route, or part thereof, for which a certificate has been issued by the Board, and no air carrier shall discontinue, in whole or in part, any service provided under such certificate on January 1, 1974, unless, upon the application of such air carrier, after notice and hearing, the Board shall find such abandonment or discontinuance to be in the public interest. Any interested person may file with the Board a protest or memorandum of opposition to or in support of any such abandonment or discontinuance. The Board may, by regulations or otherwise, authorize such temporary suspension of service as may be in the public interest.".

(b) In any case in which an air carrier discontinued any service, in whole or in part, after December 31, 1973, and before the date of enactment of this Act, the Civil Aeronautics Board may, on its own motion or upon petition by any interested party, order such service restored, in whole or in part, pending final disposition by the Board of an application with respect to such discontinuance filed by such air carrier under the amendment made by subsection (a) of this section.

SEC. 2. That portion of the table of contents contained in the first section of the Federal Aviation Act of 1958 which appears under the side heading "Sec. 401. Certificate of public convenience and necessity." is amended by striking out "(j) Application for abandonment." and inserting in lieu thereof "(j) Application for abandonment or discontinuance."

RELIEF NEEDED FOR PAKISTAN, NICARAGUA, AND THE SAHELIAN NATIONS OF AFRICA

The SPEAKER. Under a previous order of the House, the gentleman from

Pennsylvania (Mr. MORGAN) is recognized for 5 minutes.

Mr. MORGAN. Mr. Speaker, I am today introducing a bill, by request, to amend the Foreign Assistance Act of 1961 to authorize an appropriation to provide disaster relief, rehabilitation, and reconstruction assistance to Pakistan, Nicaragua, and the Sahelian nations of Africa.

This assistance is needed by reason of the damaged caused by floods in Pakistan, the earthquake in Nicaragua, and the drought in the Sahelian nations of Africa.

The appropriation of the funds was enacted during the first session, subject to the authorization.

The Committee on Foreign Affairs will hold hearings with the executive branch witnesses on February 6 and 7, and expects to act promptly on the legislation.

The letter transmitting the proposed legislation, together with the draft bill and section-by-section analysis, follows:

AGENCY FOR INTERNATIONAL DEVELOPMENT,
Washington, D.C., January 25, 1974.

Hon. CARL B. ALBERT,
Speaker, House of Representatives,
Washington, D.C.

DEAR MR. SPEAKER: This is to request that the attached bill be introduced on behalf of this Administration.

The proposed legislation would amend the Foreign Assistance Act of 1961 by adding a new section 452 in Chapter 5 of part I of that Act authorizing disaster relief, rehabilitation and reconstruction assistance in connection with the damage caused by floods in Pakistan, the earthquake in Nicaragua, and the drought in the Sahelian nations of Africa.

On January 2, 1974, the President signed P.L. 93-240, an act making appropriations for foreign assistance and related programs for the fiscal year ending June 30, 1974. Title IV of that Act appropriated $150,000,000 for necessary expenses for disaster relief and rehabilitation in Pakistan, the Sahel region of Africa and Nicaragua subject to the enactment of authorizing legislation. Enactment of the attached bill would provide the required authorization.

I am sure, Mr. Speaker, that you are aware of the urgent need for this legislation. I am prepared to appear with my colleagues before the appropriate committee at the earliest possible date to discuss our relief programs for these disasters.

This proposed legislation has been reviewed by and has the concurrence of the Office of Management and Budget.

Sincerely yours,

DANIEL PARKER,
Administrator.

H.R. 12412

A bill to amend the Foreign Assistance Act of 1961 to authorize an appropriation to provide disaster relief, rehabilitation, and reconstruction assistance to Pakistan, Nicaragua, and the Sahelian nations of Africa

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Foreign Disaster Assistance Act of 1974."

SEC. 2 Chapter 5 of part I of the Foreign Assistance Act of 1961 is amended by inserting immediately after section 451 the following new section:

"SEC. 452. DISASTER RELIEF. The Congress affirms the response of the United States Government in providing (a) disaster relief, rehabilitation, and reconstruction assistance in connection with the damage caused by floods in Pakistan, (b) disaster relief, rehabilitation, and reconstruction assistance in connection with the earthquake in Nicaragua, and (c) famine and disaster relief and rehabilitation and reconstruction assistance in connection with the drought in the Sahelian nations of Africa. There is authorized to be appropriated to the President, in addition to funds otherwise available for such purposes, $150,000,000 to remain available until expended notwithstanding the provisions of Public Law 93-240, for use by the President for such assistance, under such terms and conditions as he may determine notwithstanding any prohibitions or restrictions contained in this or any other Act."

SECTION-BY-SECTION ANALYSIS

Title IV of P.L. 93-240, the Foreign Assistance and Related Programs Appropriations Act, 1974, appropriates $150 million for necessary expenses for disaster relief and rehabilitation in Pakistan, the Sahel region of Africa and Nicaragua subject to the enactment of authorizing legislation. The purpose of the Foreign Disaster Assistance Act of 1974 is to obtain the authorization needed to use that appropriation.

The legislative history of the appropriations legislation includes the recommendation that of the $150 million appropriation, $85 million be made available for Pakistan, $50 million for the Sahel and $15 million for Nicaragua. The Executive Branch plans to follow that recommendation.

Because fiscal year 1974 is more than half over the Executive Branch believes that the requested funds should be made available until expended. Accordingly, the proposed section would waive the applicability of the generally applicable rule that funds remain available for obligation only in the fiscal year of appropriation.

To facilitate the planned assistance, authority is sought to provide it notwithstanding any prohibitions or restrictions contained in this or any other Act. Comparable authority was obtained in the case of disaster relief authorization for the Philippines and has been granted in section 639A of the Foreign Assistance Act of 1961, as amended, with respect to the $25 million of assistance already authorized for the Sahel.

ANOTHER FAIR LABOR STANDARDS PROPOSAL

The SPEAKER. Under a previous order of the House, the gentleman from Pennsylvania (Mr. DENT) is recognized for 5 minutes.

Mr. DENT. Mr. Speaker, the Congress last year approved legislation amending the Fair Labor Standards Act by an overwhelming margin. Basically, the legislation provided for a gradual increase in the Federal minimum wage rate to $2.20 an hour and extended the minimum wage and overtime compensation provisions of the act to several millions of working Americans now denied its basic protection. The President, however, saw fit to veto that humane measure and the House, on September 19, sustained that veto. It is a testament to the equity of the legislation, especially considering the tradtionally controversial nature of minimum wage proposals, that a turnabout in voting by only 14 Members would have produced an override of the veto.

On September 20—one day after the vote—many of my Republican colleagues on the Committee on Education and Labor introduced H.R. 10458, presumably the most recent alternative proposed to the ill-fated conference report. It is interesting to note that H.R. 10458, in many significant respects, follows the language of the vetoed conference report.

In perhaps the three most crucial areas, however, the proposals differ: in the amounts of timing of wage increases, the so-called youth employment-student differential, and the coverage for domestic service employees.

Those of us who supported the conference report regarded it as the ultimate compromise. We believed we had traveled the final mile toward meaningful compromise while, at the same time, preserving the essential integrity of the proposal. We truly believed we could concede no more without sacrificing the virtues of the legislation.

Since then, I have heard from many of my colleagues who want very much to vote for another minimum wage bill. Many of them voted to sustain the President's veto and were apparently told not to let that vote concern them—that another, "more acceptable" bill would be forthcoming. Obviously, another bill was not forthcoming because, as I earlier stated, it was impossible for us in good conscience to further compromise such simple and basic entitlements. We were then accused of preferring a "political issue" to a minimum wage increase. But these were the frantic cries of those who began to believe we were serious when we said we would prefer no remedial legislation to legislation which only held forth a promise but was bankrupt in meaningful content.

The fact that I am about to propose another bill will demonstrate again that we do not seek a "political issue." It will also demonstrate our objective of comity with those who had serious and legitimate concern about the conference report. But it must necessarily represent the final effort at compromise. Even at that, I am somewhat embarrassed at having to offer something I know to be insufficient; albeit it necessary under the circumstances.

Mr. Speaker, I am therefore today introducing a revised bill to amend the Fair Labor Standards Act. Since so much of it is identical to the vetoed conference report—and provisions of the so-called Quie-Erlenborn bill (H.R. 10458)—I will only discuss the three areas of primary and crucial difference earlier referred to.

At the outset, let me say that this bill does not differ from the conference report with respect to the so-called youth employment—student differential provision. We make no change in the widely expanded and liberal provisions of the conference report in that regard. Students are clearly included within the scope of that provision for employment at less than the otherwise required minimum wage rate. But nonstudent employees under the age of 18 are not.

It is interesting to note that the so-called youth employment provision in the Quie-Erlenborn bill would only permit the payment of subminimum wages to employees under the age of 18 for a maximum period of 20 weeks. This is a significant reduction from the scope of

the original proposal. But rather than regard that reduction a good faith effort at compromise, I regard it as conclusive evidence of the inherent danger of such a provision. Its proponents want a subminimum wage rate for youth so desperately, they are willing to narrow its availability as to almost render it useless to the individual young employee. It would, however, be clearly desirable to the employer who in his compulsion to the economic lure of cheap labor would turn over young employees every 20 weeks.

As I have stated repeatedly, there can be no compromise on this issue. It is a sham and a subterfuge for a return to the squalid days of child labor in this country. We best forget that sordid period of our Nation's history.

Beyond that, I have swallowed hard and specifically addressed the two remaining major areas of controversy. Note: although the Quie-Erlenborn bill differs from the conference report in the phase-out of the overtime exemption in existing law for certain employees employed in agricultural processing or seasonal industry activities, the President did not specifically object to the conference report's treatment of such employees, and I will therefore assume it is satisfactory to the administration. Indeed, it was recommended by the administration several years ago.

With respect to domestic service employees, the conference report provided minimum wage and overtime coverage to such employees on the same basis of their coverage under the Social Security Act—that is, earnings from a single employer amounting to at least $50 in a calendar quarter. It provided further that covered employees would be entitled to a minimum wage rate of not less than $1.80 an hour soon after enactment, $2 an hour effective July 1, 1974, and $2.20 an hour effective July 1, 1975.

The Quie-Erlenborn bill would provide to domestic service employees a minimum wage rate very much in accord with those contained in the conference report, but would limit coverage to only those employees who work 24 hours or more each workweek for a single employer.

Mr. Speaker, this is a not-so-subtle way of saying that the Quie-Erlenborn minimum wage provisions will not apply to virtually any domestic service employee. Most such employees will work 1 day each week for a single employer. Thus, they will not be affected by the scope of coverage provided in H.R. 10458.

What I propose is that the test of coverage be the same as that provided in the conference report and the same as that under the Social Security Act, with which all employers of domestic service employees are already acquainted. I do, however, propose a different minimum wage rate schedule for such employees. Rather than apply the rates provided by the conference report or the Quie-Erlenborn bill, I would apply the wage schedule applicable to agricultural employees in this new bill: $1.60 an hour on the effective date; $1.80 an hour effective January 1, 1975; $2 an hour effective January 1, 1976; $2.20 an hour effective 1, 1977; and $2.30 an hour effective January 1, 1978. This means, Mr. Speaker, that a domestic service employee working 8 paid hours a day, and engaged in the difficult and arduous work of housekeeping, will be initially entitled to the munificent total of $12.80. What equitable consideration she will receive from her Government.

With respect to the minimum wage rate schedules, greater understanding will probably be served by a comparison of the relevant provisions of the vetoed conference report, the Quie-Erlenborn bill, and the bill I am today introducing. For this purpose, we must assume that the conference report would have been enacted in September 1973—when vetoed—the Quie-Erlenborn bill would have been enacted in September 1973—when introduced—and this bill would be enacted in January 1974—when introduced:

I. NONAGRICULTURAL EMPLOYEES COVERED UNDER THE MINIMUM WAGE PROVISIONS OF THE FAIR LABOR STANDARDS ACT PRIOR TO THE EFFECTIVE DATE OF THE 1966 AMENDMENTS

Effective date (by year)	Conference report	Quie-Erlenborn	Dent (revised)
1973	$2.00	$2.00	
1974	2.20	2.10	$2.00
1975		2.20	2.10
1976		2.30	2.30

II. NONAGRICULTURAL EMPLOYEES COVERED UNDER THE MINIMUM WAGE PROVISIONS OF THE FAIR LABOR STANDARDS ACT BY THE 1966 AMENDMENTS AND 1973(4) AMENDMENTS—EXCEPT FOR DOMESTIC SERVICE EMPLOYEES IN REVISED DENT BILL

Effective date (by year)	Conference report	Quie-Erlenborn	Dent (revised)
1973	$1.80	$1.80	
1974	2.00	2.00	$1.90
1975	2.20	2.20	2.00
1976		2.30	2.20
1977			2.30

III. AGRICULTURAL EMPLOYEES (AND DOMESTIC SERVICE EMPLOYEES IN THE REVISED DENT BILL) COVERED UNDER THE MINIMUM WAGE PROVISIONS OF THE FAIR LABOR STANDARDS ACT

Effective date (by year)	Conference report	Quie-Erlenborn	Dent (revised)
1973	$1.60	$1.60	
1974	1.80	1.80	$1.60
1975	2.00	2.00	1.80
1976	2.20	2.20	2.00
1977		2.30	2.20
1978			2.30

Mr. Speaker, I believe these tables are illustrative enough. What I have proposed is indeed less than that conceded by my colleagues and good friends from the other side. The House will have an opportunity to vote on this proposal—hopefully within the next several weeks—and we will be better able to determine the depth of sincerity of those who espouse minimum wage increases but vote against them.

It bears repeating, that we are at the end of the line on this matter. Any further concessions on our part would clearly tip the scales in favor of no bill at all. In legislation of this magnitude and complexity, all parties cannot come away completely satisfied. I, personally, am far from satisfied with my revised approach. But there comes a time when talk is cheap and the issue must be fairly met. We have reached that point on minimum wage legislation.

FREEDOM FOR THE UKRAINIAN NATIONAL REPUBLIC A PRIME CONDITION FOR DÉTENTE, AND TRADE AGREEMENTS

The SPEAKER. Under a previous order of the House, the gentleman from Massachusetts (Mr. BURKE) is recognized for 5 minutes.

Mr. BURKE of Massachusetts. Mr. Speaker, 56 years ago a small determined country proudly rose to take its place among the free and independent nations of the world. The Ukrainian National Republic was bathed in a ray of light which was the hope and promise of a free and prosperous future. But all too suddenly, that light was to be extinguished. The foundling nation, barely 2 years old, was bludgeoned into the darkness of Soviet oppression. That oppression has continued to this day. The Communists, in their constant and relentless efforts to maintain an iron clasp strangle hold over Ukrainian attempts at freedom, have had their work cut out for them. Despite all of their suppressive tactics, they are unable to break the spirit and the determination of these noble people. Surely by now, the Russians must have learned that sending intellectuals and political prisoners off to prison camps and asylums will not silence the constant cries for independence. Stalin's manmade famine which took the lives of 15 million Ukrainians did not weaken their spirit nor dampen their determination. These brave people have kept up the fight, and they should serve as an inspiration to all of us. We must encourage them in their struggle, and we must join in their determination to restore the Ukrainian National Republic to its rightful place as a free and independent nation. We must seek to make this a prime condition for détente and trade agreements. We must assure the people of the Ukraine that they are not alone in their struggle.

FAREWELL, H.R. 144

(Mr. DENNIS asked and was given permission to address the House for 1 minute, and to revise and extend his remarks and include extraneous material.)

Mr. DENNIS. Mr. Speaker, I have taken this moment for the purpose of inserting in the RECORD an editorial from the Wall Street Journal of January 21, 1974, entitled "Farewell, H.R. 144." It is a very well deserved tribute to our distinguished colleague, the gentleman from Iowa (Mr. GROSS).

The editorial follows:

FAREWELL, H.R. 144

It's not our normal practice to comment, one way or another, on the retirement of a member of Congress, turnover on Capitol Hill being what it is. We are moved to break this rule for Rep. H. R. Gross of Iowa, who says he won't run for re-election this year because he

is 74. If the nation is only going to have the services of this singular GOP Congressman for another few months, a search must begin immediately for someone with his extraordinary gift.

For 25 years, Mr. Gross has stood as a pillar of parsimony on the floor of the House, the scourge of the spenders. Single-handedly, he has saved American taxpayers tens, perhaps hundreds of millions of dollars. While others are willing to challenge expenditures of billions of dollars at a whack, who other than H. R. Gross had the brass to question the cost of the eternal flame over President Kennedy's grave? It may have irked outsiders, but to the denizens of Capitol Hill, H. R. Gross was simply being H. R. Gross.

In fact, there is rarely a nickel that Congress authorizes or appropriates that Mr. Gross does not scrutinize, fixing his jeweler's eye and acerbic wit most especially on the $25,000 and $50,000 measures that his colleagues are forever trying to slip through on the private calendar. Or the expense accounts of their overseas junkets. The mere fact everyone knows they have to sneak past Mr. Gross has a formidable deterrent effect.

His is not a talent that one acquires overnight. Which is why the joint leadership of the House should immediately begin a search for and training of a successor. As a farewell gesture to Mr. Gross, they might consider retiring his number, a gross equaling 144. In every Congress, House Resolution 144 (H.R. 144) is submitted by the Iowan. It's a bill requiring the paying off of the national debt.

THE OIL DEPLETION ALLOWANCE AND THE ARAB EMBARGO

(Mr. KOCH asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. KOCH. Mr. Speaker, today I am introducing a bill I am cosponsoring with Senator LLOYD M. BENTSEN which would limit the use of the 22 percent oil depletion allowance to oil and gas produced in North America. Our present tax code permits American oil companies the same depletion allowance in the Middle East and elsewhere as it does for domestic production. This is doubly aggravating in that first, it encourages our oil companies to prospect outside of our own country making us dependent on foreign oil and second, it means we are providing tax subsidies to produce oil which is then embargoed by the Middle East countries.

While in principle, I do not support the maintenance of the oil depletion allowance no matter where the oil is prospected, and I, therefore, favor the efforts of Senator GAYLORD NELSON to remove this provision of the tax code, I am introducing this measure because I believe that as a minimum we cannot continue to subsidize oil exploration outside North America. Total elimination of the oil depletion allowance will be a tough fight and I will lend my efforts to this ultimate goal. In the meantime, I hope we can pass this bill and protect ourselves against further subsidization of oil production in Arab countries that embargo oil exportation to our shores—and by companies that are more responsive to the commands of King Faisal of Saudi Arabia than the fuel demands of our naval fleet in the Mediterranean.

AGREEMENT AND GRANT OF RIGHT-OF-WAY FOR TRANS-ALASKA PIPELINE

(Mr. YOUNG of Alaska asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. YOUNG of Alaska. Mr. Speaker, it is my honor and privilege to submit to this body the "Agreement and Grant of Right-of-Way for Trans-Alaska Pipeline" signed on January 23, 1974 by the Secretary of Interior Rogers C. B. Morton and th- seven principals of the Alyeska Pipeline Service Co.

This is an historical document in a number of ways. It has been 6 years since the 10 billion barrels of proven oil reserves were discovered on the North Slope of Alaska. Since that time, the issuance of a right-of-way permit has been delayed by numerous court proceedings until legislation was passed by Congress and signed by the President on November 16, 1973, to authorize issuance of a permit and the construction of the pipeline. It is the first time the Department of Interior has ever had such strict environmental and technical stipulations imposed as a condition of a right-of-way permit. It is the first time that reimbursement has been secured from the permittee for the studies, supervision and monitoring of the construction.

It is for these reasons and the importance of this document to the general public that I make it a part of the official record.

I also take this occasion to once again thank the many friends of Alaska who helped pass the trans-Alaska Pipeline authorization bill on the floor of the House August 2, 1973.

The document follows:

AGREEMENT AND GRANT OF RIGHT-OF-WAY FOR TRANS-ALASKA PIPELINE BETWEEN THE UNITED STATES OF AMERICA AND AMERADA HESS CORP., ARCO PIPE LINE CO., EXXON PIPELINE CO., MOBIL ALASKA PIPELINE CO., PHILLIPS PETROLEUM CO., SOHIO PIPE LINE CO., AND UNION ALASKA PIPELINE CO.

AGREEMENT AND GRANT OF RIGHT-OF-WAY FOR TRANS-ALASKA PIPELINE

(NOTE.—Terms having special meaning are defined in the body of this Agreement or in Exhibit D hereof. Such terms are capitalized herein.)

This Agreement and Grant of Right-of-Way (hereinafter referred to as the "Amendment") * is entered into as of this 23rd day of January, 1974 (hereinafter referred to as the "Effective Date"), by the United States of America, party of the first part (hereinafter referred to as the "United States"), acting through the Secretary of the Interior, and by

Amerada Hess Corporation, a Delaware Corporation,

ARCO Pipe Line Company, a Delaware Corporation,

Exxon Pipeline Company, a Delaware Corporation,

Mobil Alaska Pipeline Company, a Delaware Corporation,

Phillips Petroleum Company, a Delaware Corporation,

Sohio Pipe Line Company, a Delaware Corporation, and

Union Alaska Pipeline Company, a California Corporation,

parties of the second part (hereinafter sometimes referred to as the "Original Permittees").

The parties have entered into this Agreement taking into consideration the national authorizations, directives, and policies expressed in applicable legislation, including Section 202 of the Trans-Alaska Pipeline Authorization Act, 87 Stat. 584, *et seq.* (1973).

It is the intent of the parties that, in the performance of this Agreement, the following principles shall apply:

(1) In the construction (including, but not limited to, design), operation, maintenance (including but not limited to a continuing and reasonable program of preventive maintenance) and termination of the Pipeline System, Permittees shall employ all practicable means and measures to preserve and protect the environment, as provided in this Agreement.

(2) The parties shall balance environmental amenities and values with economic practicalities and technical capabilities, so as to be consistent with applicable national policies. In so doing, the parties shall take into account, among other considerations, the following:

(a) The benefit or detriment to persons, property and the environment that may be anticipated to result from a proposed course of conduct;

(b) The particular environmental, technical, and economical benefits or detriments reasonably expected to flow from a proposed course of conduct;

(c) The effect on the energy needs of the United States, including the possible effects of a disruption of national or regional oil supply, that may result from a particular course of conduct.

(3) Permittees shall manage, supervise and implement the construction, operation, maintenance and termination of the Pipeline System in accordance with sound engineering practice, to the extent allowed by the state of the art and the development of technology. In the exercise of these functions, Permittees consent and shall submit to such review, inspection and compliance procedures relating to construction, operation, maintenance and termination of the Pipeline System as are provided for in this Agreement and other applicable authorizations. The parties intend that this Agreement shall not in any way derogate from, or be construed as being inconsistent with, the provisions of Section 2803(d) of the Trans-Alaska Pipeline Authorization Act, 87 Stat. 585 (1973), relating to the National Environmental Policy Act, 83 Stat. 852, 42 U.S.C. § 4321 *et seq.*

In consideration of the grant hereby made, and the provisions of this Agreement, the United States and Permittees agree as follows:

1. Grant of right-of-way

A. Pursuant to the provisions of the Trans-Alaska Pipeline Authorization Act, the United States hereby grants to Permittees, in the several undivided interests specified in subsection B of this Section, for the period of limited duration prescribed in Section 7 hereof and for the purpose prescribed in subsection A of Section 2 hereof a right-of-way (hereinafter referred to as the "Right-of-Way"), the width and location thereof being subject to the provisions of Sections 5 and 6 hereof, across, through and upon the Federal Lands (as that term is defined in section 28 of the Mineral Leasing Act of 1920, 41 Stat. 449, as amended, 30 U.S.C. § 185 *et seq.*, including public and acquired lands, and lands withdrawn, reserved, classified, or otherwise set apart for National Forests, military purposes, power development, or other purposes) along the general route of the Pipeline, identified in the applications and accompanying alignment map and Related Facility site location drawings referred to in Exhibit A hereof.

B. The grant made hereby is of the following undivided interests in and to the Right-of-Way:

Amerada Hess Corporation, an undivided interest of 3.00% of the whole;

ARCO Pipe Line Company, an undivided interest of 28.08% of the whole;

Exxon Pipeline Company, an undivided interest of 25.52% of the whole;

Mobil Alaska Pipeline Company, an undivided interest of 8.68% of the whole;

Phillips Petroleum Company, an undivided interest of 3.32% of the whole;

Sohio Pipe Line Company, an undivided interest of 28.08% of the whole;

Union Alaska Pipeline Company, an undivided interest of 3.32% of the whole.

C. There is hereby excepted from the grant hereby made all lands selected and validly tentatively approved to the State of Alaska, pursuant to the Alaska Statehood Act, 72 Stat. 339, as amended, other than lands withdrawn under Section 11(a)(2) of the Alaska Native Claims Settlement Act, 85 Stat. 696, 43 USC § 1610.

D. There is hereby reserved to the United States all rights reserved, or directed to be reserved, to the United States under any applicable law or regulation of the United States or elsewhere under this Agreement.

E. The grant hereby made is subject to: (1) the provisions of this Agreement; (2) all applicable laws and regulations of the United States; (3) any valid existing rights in the lands subject to the Right-of-Way, including without limitation the valid pre-existing rights, if any, of the State of Alaska; and (4) the condition that the Right-of-Way granted hereby across Category 1(c) Lands and Category 1(d) Lands[1] shall take effect upon the occurrence of one of the following events, whichever shall first occur:

(a) The Commissioner of Natural Resources of the State of Alaska notifies the Secretary in writing that it is essential for the expeditious construction of the Pipeline System that the Right-of-Way in and to some or all of the Category 1(c) Lands or Category 1(d) Lands, or both, becomes effective; [2] or

(b) Category 1(d) Lands have not been tentatively aproved to the State of Alaska and a valid right-of-way lease or other grant in and to those lands has not been issued by the State of Alaska, for the construction and operation of the Pipeline System, by March 10, 1974; or

(c) The Category 1(c) Lands have not been tentatively approved to the State of Alaska and a valid right-of-way lease or other grant in and to those lands has not been issued by the State of Alaska, for the construction and operation of the Pipeline System, by June 1, 1974.

F. With respect to the Category 1(c) Lands and the Category 1(d) Lands, the grant hereby made is further subject to the limitation and condition that upon either valid tentative approval or valid patent of any of such lands to the State of Alaska, the existence or subsequent issuance of a valid State right-of-way lease or other grant in and to those lands terminates the Right-of-Way and other Federal authorizations, if any, and the State right-of-way lease or other grant thereupon applies in all respects to those lands.

G. Permittees agree that they will not challenge the validity of the State's right-of-way lease or other grant on the basis of the existence of the Federal Right-of-Way and other authorizations or their interest therein.

[1] "Category 1(c) Lands" and "Category 1(d) Lands" are defined in Exhibit D hereto. These terms are derived from Paragraph 1 of Part I of the Cooperative Agreement between the State of Alaska and the Department, attached hereto as Exhibit E for informational purposes.

2. Purpose of grant; limitation of use to permittees

A. The Right-of-Way is granted for the purpose of the construction, operation, and maintenance of one (1) Oil transportation pipeline, consisting of one (1) line of forty-eight (48)-inch diameter pipe and its Related Facilities (such pipeline and Related Facilities being herein referred to as the "Pipeline").

B. Permittees, their agents, contractors, and subcontractors (at any tier) shall not use the Right-of-Way or the land subject thereto for any other purpose and shall not locate or construct any other pipelines (including looping lines) or other improvements within the Right-of-Way without the prior written approval of the Secretary.

C. The Pipeline shall be used for only the transportation of Oil, and it shall not be used for any other purpose without the prior written approval of the Secretary.

D. Each Permittee shall not allow or suffer any Person or Business Entity, with the exception of the other Permittees under this Agreement, to use the Right-of-Way for the purpose set forth in subsection A of this Section.

E. Nothing above in subsection D of this Section is intended to: (1) excuse or preclude Permittees from complying with their obligations under Section 3 of this Agreement, or (2) preclude Permittees from employing agents, contractors, or subcontractors (at any tier) to effect construction, operation, maintenance or termination of the Pipeline System.

3. Transportation of oil

Each Permittee shall to the extent of its interest in the Right-of-Way, and in accordance with the provisions of Section 28 of the Mineral Leasing Act of 1920, 41 Stat. 449, as amended:

(1) Construct, operate, and maintain the Pipeline as a common carrier;

(2) Accept, convey, transport, or purchase, without discrimination, Oil delivered to the Pipeline without regard to whether such Oil was produced on Federal or non-Federal lands; and

(3) Accept, convey, transport, or purchase, without discrimination, Oil produced from Federal Lands or from the resources thereon in the vicinity of the Pipeline in such proportionate amounts as the Secretary may, after a full hearing with due notice thereof to Permittees and a proper finding of facts, determine to be reasonable.

4. Exhibits; incorporation of certain documents by reference

A. The Exhibits that are attached to this Agreement and that are listed below in this subsection are, by this reference, incorporated into and made a part of this Agreement as fully and effectually as if the Exhibits were set forth herein in their entirety:

(1) List of applications and accompanying alignment map and site location drawings identifying the general route of the Pipeline, attached hereto as Exhibit A.

(2) Requirements of the Department of Defense relating to military installations, with attached letters dated November 14, 1973, and November 23, 1973, from the Director of Real Estate, Department of the Army, Office of the Chief of Engineers, attached hereto as Exhibit B.

(3) Requirements of the Federal Power Commission relating to power sites, attached hereto as Exhibit C.

(4) Stipulations for the Agreement and Grant of Right-of-Way for the Trans-Alaska Pipeline, being numbered 1 through 3.11.2, inclusive, attached hereto as Exhibit D, which are sometimes referred to in this Agreement as the "Stipulations."

B. The cooperative agreement attached hereto as Exhibit E is not incorporated into, and is not intended to be made a part of, this Agreement. Said cooperative agreement is attached hereto only for informational purposes.

5. Width of right-of-way

The width of the Right-of-Way, in terms of surface measurement, is fifty (50) feet plus the ground occupied by the Pipeline; *provided, however,* that up to and including the date on which Permittees may file an application for modification of the Right-of-Way boundaries in accordance with subsection D of Section 6 hereof, Permittees may apply for, and the Authorized Officer may direct or authorize, increases in the width of the Right-of-Way at specified points if he finds, and records the reasons for his finding, that in his judgment a wider Right-of-Way is necessary for operation and maintenance of the Pipeline after construction, or to protect the environment or public safety.

6. Location of right-of-way

A. The site for each Construction Segment of the Pipeline shall be determined in accordance with the provisions of Stipulation 1.7.

B. After completion of construction of the Pipeline within a particular Mapping Segment, the Federal Lands subject to the Right-of-Way shall be the land occupied by the Pipeline and, in terms of surface measurement, twenty-five (25) feet on each side of the Pipeline measured from its outermost extremities. With respect to Related Facilities, the width shall be twenty-five (25) feet around the perimeter of the Related Facility.

C. Upon completion of construction of the Pipeline within a Mapping Segment, as well as upon the issuance of any authorization or directive that the Authorized Officer may issue in accordance with the provisions of Section 5 hereof, Permittees shall, if directed by the Authorized Officer, physically mark on the ground the proposed boundaries of the Right-of-Way at such locations and in such manner as is acceptable to the Authorized Officer.

D. At any time prior to the sixtieth (60th) day preceding the filing of the maps of survey as provided in subsection E hereof. Permittees may file an application for modification of the Right-of-Way boundaries provided that, after modification, the Right-of-Way will include the ground occupied by the Pipeline plus fifty (50) feet adjacent thereto and such additional land as authorized by the Authorized Officer pursuant to Section 5 hereof. Upon approval of such application for modification of boundaries and acceptance of the documents and maps required by subsection E hereof, the Right-of-Way shall be as delineated on said maps of survey.

E. Within three hundred and sixty (360) days after the date of Commissioning of the Pipeline (and, in the case of any addition, deletion or alteration of the Pipeline following the date of Commissioning, within one hundred and eighty (180) days after the addition, deletion or alteration has, in the judgment of the Authorized Officer, been fully completed), Permittees shall survey and provide adequate monumentation to locate and describe the Right-of-Way and shall file: (1) proof of construction of the Pipeline in accordance with the applicable regulations of the Department; (2) such documents of relinquishment of land not included in the modified Right-of-Way, if any, as may be required by the Authorized Officer; (3) appropriate references to applications in which requests were made for Right-of-Way widths greater than the normal limitations specified in Section 5 of this Agreement, and applications for modification of

[2] The Secretary has received notice from the State Commissioner of Natural Resources that the expeditious construction of the Pipeline System on the Category 1(d) Lands is essential. Therefore, the Right-of-Way across those lands is hereby effective.

the Right-of-Way boundaries as provided in subsection D hereof; and (4) a map, or maps of survey, prepared in such manner as shall be required by the Authorized Officer, showing the final "as built" location of the completed Pipeline, including the final locations of all buried and above ground improvements, the centerline of the Right-of-Way, as definitely located, and, referenced to the centerline, the boundaries of the Right-of-Way, as definitely located. Each portion of the Pipeline as depicted on the said survey map or maps, and for which a Notice to Proceed, or an authorization, issued in accordance with Stipulation 1.7.4.4 altering either the route or the initially approved location along the route of the Right-of-Way, has been issued, shall be referenced to the relevant Notice to Proceed or authorization.

7. Duration of right-of-way grant

A. The grant hereby made of the Right-of-Way shall come to an end and expire on the 22nd day of January, 2004, at noon, Washington, D.C. time, unless prior thereto it is relinquished, abandoned, or otherwise terminated pursuant to the provisions of this Agreement or of any applicable Federal law or regulation.

B. Upon the expiration of the initial or any subsequent grant of the Right-of-Way, or its earlier relinquishment, abandonment, or other termination, the provisions of this Agreement, to the extent applicable, shall continue in effect and shall be binding on the parties hereto, their successors or assigns, until they have fully performed their respective obligations and liabilities accruing before or on account of the expiration, or the prior termination, of the grant.

C. The Right-of-Way shall be renewed, subject to and in accordance with the provisions of the Trans-Alaska Pipeline Authorization Act.

D. Any subsequent conveyance, transfer or other disposition of any right, title or interest in the Federal Lands or any part thereto, burdened by and subservient to the Right-of-Way, shall, to the extent allowed by law and subject to the termination provision of subsection F of Section 1, be subject to the Right-of-Way and the provisions of this Agreement, including Permittees' right to renew the Right-of-Way under subsection C of this Section.

8. Use charge for right-of-way

A. Permittees shall pay to the United States annually and in advance, the fair market rental value of the Right-of-Way, as determined by the Secretary. (Such rental value is hereinafter called the "Use Charge.")

B. The initial Use Charge shall be One Hundred Five Thousand and 00/100 Dollars ($105,000) for each calendar year. The first annual Use Charge shall be prorated to cover that portion of the calendar year 1974 which remains after the Effective Date hereof and shall be due and payable by not later than the Effective Date hereof. The Use Charge for the first full calendar year commencing after the Effective Date hereof and for each subsequent calendar year shall be due and payable by not later than the last full business day immediately preceding the first day of January of the calendar year for which the Use Charge is payable. The Use Charge for each calendar year shall be billed to Permittees at least thirty (30) days in advance of the due date thereof. All such payments shall be delivered to the Authorized Officer and shall be accepted subject to collection.

C. The Use Charge for the seventh (7th) and for each succeeding calendar year shall be subject to adjustment from time to time in accordance with the regulations of the Department. The Secretary also may adjust retroactively the amount of the annual Use Charge for any calendar year that is based on an appraisal which is made before the Right-of-Way is, in its entirety, finally located, surveyed and monumented; any sum determined by the Secretary to be payable (by either the United State or Permittees) in connection with an adjustment as provided for in this sentence, shall be due and payable within thirty (30) days after notice is given of the amount due.

9. Construction plans and quality assurance program

A. Permittees shall submit construction (including design) plans, a quality assurance program, and other related documents as deemed necessary by the Authorized Officer, for review and approval prior to his issuing Notices to Proceed.

B. The quality assurance program shall be comprehensive and designed to assure that the environmental and technical Stipulations in this Agreement will be fully complied with throughout all phases of construction, operation, maintenance and termination of the Pipeline System.

C. The following criteria shall be included in the quality assurance program, although Permittees are not limited to these criteria:

(1) Provide adequate and appropriate means and procedures for the detection and prompt abatement of any actual or potential condition that is susceptible to abatement by Permittees which arises out of, or could affect adversely, the construction, operation, maintenance or termination of all or any part of the Pipeline System and which at any time may cause or threaten to cause: (a) a hazard to the safety of workers or to public health or safety (including but not limited to personal injury or loss of life with respect to any person or persons) or (b) serious and irreparable harm or damage to the environment (including but not limited to areas of vegetation or timber, fish or other wildlife populations, or their habitats, or any other natural resource).

(2) Provide adequate and appropriate means and procedures for the repair and replacement of improved or tangible property and the rehabilitation of natural resources (including but not limited to revegetation restocking of fish or other wildlife populations and reestablishing their habitats) that shall be seriously damaged or destroyed if the immediate cause of the damage or destruction arises in connection with, or results from, the construction, operation, maintenance or termination of all or any part of the Pipeline System.

(3) Provide for component and systems quality through adequate quality control management and planning, and inspection and test procedures.

(4) Assure that the selection of Permittees' contractors, subcontractors and contract purchases of materials and services are based upon the above quality control procedures.

(5) Determine quality performance by conducting surveys and field inspections of all of the facilities of Permittees' contractors and subcontractors.

(6) Maintain quality determination records on all of the above procedures to insure satisfactory data identification and retrieval.

10. Compliance with notices to proceed

All construction of the Pipeline System undertaken by Permittees shall comply in all respects with the provisions of Notices to Proceed that are issued by the Authorized Officer.

11. Reservation of certain rights to the United States

A. The United States reserves and shall have a continuing and reasonable right of access to any part of the lands (including the subsurface of, and the air space above, such lands) that are subject to the Right-of-Way, and a continuing and reasonable right of physical entry to any part of the Pipeline, for inspection or monitoring purposes and for any other purpose or reason that is reasonably consistent with any right or obligation of the United States under any law or regulation, this Agreement, or any other agreement, permit or authorization relating in whole or in part to all or any part of the Pipeline.

B. The rights of access and entry reserved in subsection A of this Section shall extend to and be enjoyed by any contractor of the United States, any subcontractors (at any tier) of the contractor and their respective agents and employees, as well as such other persons, as may be designated from time-to-time in writing by the Authorized Officer.

C. There is reserved to the United States the right to grant additional permits or easements for rights-of-way to third parties for compatible uses on, or adjacent to, the lands subject to the Right-of-Way. Before the United States grants an additional right-of-way or permit for a compatible use, the United States will notify Permittees of its intentions and shall consult with Permittees before taking final action in that regard.

12. Reimbursement of department expenses

A. Permittees shall reimburse the United States for all reasonable administrative and other costs heretofore or hereafter incurred directly or indirectly by the Department for: (1) processing applications filed by Permittees in connection with the Pipeline System; and (2) monitoring the construction, operation, maintenance, and termination of all or any part of the Pipeline System, including without limitation those portions of the System that shall be located on State-owned lands.

B. Subject to collection, receipt is hereby acknowledged by the Department of the sum of Twelve Million Two Hundred Fifty Three Thousand Seven Hundred Thirty and 00/100 Dollars ($12,253,730) which has been paid to the United States by Permittees at the time of execution of this Agreement. Said sum represents the amount of the costs referred to in subsection A of this Section, which were incurred by the Department through September 30, 1973.

C. Permittees shall hereafter pay to the United States such sums as the Secretary shall determine to be required to reimburse the Department for the costs, referred to in subsection A of this Section, incurred or to be incurred by it subsequent to September 30, 1973. Such payments shall be made in accordance with the provisions of subsection F of this Section.

D. Permittees acknowledge that the Department has employed or may employ one or more independent consultants, contractors and subcontractors and also has utilized and may utilize personnel and services of other agencies to assist it with: (1) processing applications heretofore or hereafter filed by Permittees in connection with the Pipeline System; and (2) monitoring the construction, operation, maintenance and termination of the Pipeline System. Before employing such consultants, contractors, or subcontractors, the Secretary shall notify Permittees of such employment and shall inform the Permittees of the purpose of employment, the scope of the work to be undertaken, the duration of the employment and the estimated cost thereof; *provided, however*, this notice requirement shall not limit the authority of the Secretary to enter into agreements with consultants, contractors or subcontractors. Costs incurred by the Department in connection with the employment of consultants, contractors and sub-

contractors and with respect to utilizing the personnel and services of other agencies shall be included in the costs for which the Department is to be reimbursed by Permittees under the provisions of subsection A of this Section.

E. Agreements entered into by the Secretary with respect to the Pipeline System which result in costs for which reimbursement is required by this Section shall be drawn to avoid unnecessary employment of personnel and needless expenditure of funds. The Department shall administer this Agreement and such other agreements to reasonably assure that unnecessary employment of personnel and needless expenditure of funds are avoided.

F. Reimbursement by Permittees, as provided for in this Section and Section 18 hereof, shall be made for each quarter ending on the last day of March, June, September and December. On or before the sixtieth (60th) day after the close of each quarter, the Authorized Officer shall submit to Permittees a written statement of the costs incurred by the Department during that quarter which are reimbursable.

G. Permittees shall have the right to conduct, at their own expense, reasonable audits by auditors or accountants, designated by Permittees, of the books, records and documents of the Department and of its independent consultants, contractors and subcontracts relating to the items on any particular statement that shall be submitted in accordance with the procedure outlined in subsection F of this Section, at the places where such books, records and documents are usually maintained and at reasonable times; *provided, however,* that written notice of a desire to conduct such an audit must be given the Authorized Officer: (1) at least fifteen (15) days prior to such audit; and (2) by not later than the seventy-fifth (75th) day after the close of the quarter for which the books, records and documents are sought to be audited; and *provided further,* that any such audits shall be completed within ninety (90) days after receipt by Permittees of the statement containing the items to be audited.

H. Nothing herein shall be deemed to require the Department, its bureaus or offices, or its independent consultants, contractors and subcontractors to maintain books, records or documents other than those usually maintained by them, provided that such books, records and documents reasonably segregate and identify the costs for which reimbursement is required by this Section. Such books, records and documents shall be preserved or caused to be preserved for a period of at least two (2) years after the Department submits a statement for reimbursement based on such books, records and documents. The auditors or accountants designated by Permittees shall have reasonable access to, and the right to copy, at their expense, all such books, records and documents, including all audit reports prepared by or furnished to the Department, together with supporting documents in the possession of the Department, concerning agreements with other agencies employed by the Department and with its independent consultants, contractors and subcontractors, which result in costs for which reimbursement is required by this Section.

I. With respect to the audits by Permittees of any books, records and documents of the Department and its independent consultants, contractors or subcontractors under agreements which result in costs for which reimbursement is required by this Section, such audits shall be conducted by independent certified public accountants, designated by Permittees. Prior to conducting any such audits, such accountants shall confer with the auditors auditing such consultants, contractors or subcontractors for the Department for the purpose of coordinating and expediting their respective audits. Any such audits by such accountants shall be conducted as supplementary audits, reviewing and spot checking the audits of the Department's auditors for the purpose of determining the accuracy of costs reflected in the billings of the Department which are reimburseable under subsection A of this Section, and auditing such other matters as may be appropriate in the circumstances. The Authorized Officer may designate a representative to observe any such audits by such accountants. The Authorized Officer shall have reasonable access to, and the right to copy, all such audit reports prepared by such accountants and furnished to Permittees, together with supporting documents in the possession of the Permittees. In the event that the Authorized Officer believes that the scope of any such supplementary audit is unreasonable, he shall promptly notify Permittees and such accountants, and such supplementary audit shall be suspended pending consultation by the Authorized Officer and the Permittees of the appropriate scope of audit in the circumstances. Any complaints which Permittees may have with respect to such agreements, their performance or the statement of the Department for the reimbursement of costs based on such agreements shall be made only to the Authorized Officer.

J. Permittees shall pay to the United States, through the Authorized Officer, the total amount as shown on each statement by not later than the due date thereof, namely the ninetieth (90th) day following the close of the quarter to which the statement relates; *provided, however,* that if any one or more of the Permittees decides to dispute or audit any item of a statement that shall be rendered in accordance with the provisions of this Section or Section 18 hereof, Permittees, on or before the said 90th day on which the statement is due and payable, shall give the Authorized Officer written notice of each item that is disputed, accompanied by a detailed explanation of their objection, or written notice of each item to be audited, and shall pay to the United States, through the Authorized Officer, those amounts for the items that are not disputed or are not to be audited. If any item of a statement is audited, Permittees shall give the Authorized Officer prompt written notice of the completion of the audit of all the items of a statement being audited. On a date fixed by the Authorized Officer, but in any event to be within thirty (30) days after notice of a disputed statement or after notice of the completion of the audit, as the case may be, the Authorized Officer and Permittees shall meet to discuss, and attempt to resolve, all items which are disputed or which have not been resolved by the audit. If at that time they are unable to resolve all such items, Permittees may appeal any unresolved items to the Secretary in accordance with the provisions of subsection A of Section 26 of this Agreement. Any items resolved as being payable to the United States shall be paid within thirty (30) days after being resolved, together with interest thereon up to the date of payment at a total annual percentage rate equal to the discount rate of the Federal Reserve Bank for District 12 (San Francisco) in effect on the original due date of the statement, and such interest shall accrue and be computed from, and so as to include, the aforesaid due date. The items shown on any statement that are not the subject of both: (1) a notice to the Authorized Officer of a disputed item or notice of audit, and (2) a notice of appeal as provided for in subsection A of Section 26, shall be deemed conclusively to be payable to the United States by Permittee.

K. In addition to the right to audit quarterly statements as provided in subsection G of this Section, if Permittees believe that unnecessary employment of personnel or needless expenditure of funds has occurred or is likely to occur contrary to the provisions of subsection E of this Section, Permittees may request the approval of the Authorized Officer for Permittees to conduct promptly and at their own expense a full and complete audit by auditors or accountants designated by Permittees, of the books, records and documents concerning the matters to be audited, at the places where such books, records and documents are usually maintained and at reasonable times. Such request shall be in writing, shall specify the matters to be audited and shall state the information available to Permittees upon which the request is based.

The Authorized Officer shall approve or deny such request promptly, and approval of any such request shall not be unreasonably withheld. If and to the extent that any such audit concerns any agreements of the Department with independent consultants, contractors or subcontractors which have resulted or may result in costs for which reimbursement is required by this Section, such audit shall be conducted by independent certified public accountants designated by Permittees. The Authorized Officer may designate a representative to observe any audit allowed by this subsection and the Authorized Officer may have access to, and the right to copy, the audit report prepared by such accountants and furnished to Permittees. Any complaint which Permittees may have as a result of any audit under this subsection shall be made only to the Authorized Officer and shall be governed by the procedure set forth in subsection J of this Section, to the extent applicable.

13. Damage to United States property; repair, replacement or claim for damages

A. Subject to the provisions of subsection 204(a)(2) of the Trans-Alaska Pipeline Authorization Act, at the written demand of the Authorized Officer, Permittees:

(1) shall repair or replace promptly, to the written satisfaction of the Authorized Officer, all improved or tangible property of the United States, whether real, personal or mixed, that has been seriously damaged or destroyed and is included in the demand, and

(2) shall rehabilitate (including, but not limited to, revegetation, restocking fish or other wildlife populations and reestablishing their habitats), to the written satisfaction of the Authorized Officer, any natural resource that shall be seriously damaged or destroyed, if the immediate cause of the damage or destruction arises out of, is connected with, or results from, the construction, operation, maintenance or termination of all or any part of the Pipeline System; *provided, however,* that Permittees shall not be obligated to repair or replace any property or to rehabilitate any natural resource that was damaged or destroyed: (a) by an act of war or (b) solely by (i) the negligence of the United States and/or (ii) the negligence or willful misconduct of Persons who are authorized to enter upon, use or occupy the damaged property or areas pursuant to any Federal lease, permit, or other written authorization that is issued for any use or purpose other than in connection with the construction, operation, maintenance or termination of the Pipeline.

B. The repair or replacement by the Permittees of any improved or tangible property of the United States, as provided for in subsection A of this Section, shall operate to preclude the United States from asserting any

claim for direct (as opposed to consequential) money damages with respect to the damage or destruction that was so repaired or replaced.

C. Except to the extent that a claim by the United States for money damages against any one or more of the Permittees shall be barred in accordance with the provisions of subsections A and B of this Section, Permittees shall be liable to the United States, with respect to improved or tangible property of the United States, whether real, personal or mixed, that is damaged or destroyed in connection with or resulting from activities along or in the vicinity of the Right-of-Way in accordance with the provisions of Section 204 of the Trans-Alaska Pipeline Authorization Act.

D. In the event that a Permittee shall be liable to the United States for any damage, destruction or loss of improved or tangible property of the United States whether real, personal or mixed, the collection by the United States of money damages on account of the particular loss, damage or destruction, shall to the extent collected operate to preclude the United States from enforcing the provisions of subsection A of this Section with respect to such loss, damage or destruction.

14. Indemnification of the United States

A. Permittees shall indemnify and hold harmless the United States, its agents and employees, against and from any and all liabilities or damages of any nature whatsoever which the United States, its agents, employees, contractors or subcontractors (at any tier) become legally obligated to pay, and which arise out of, or are connected with, any one or more of the following: (1) the construction, operation, maintenance or termination of the Pipeline System; (2) the approval (as distinguished from the ordering of a modification pursuant to Stipulation 1.3.2.) by the United States, its agents, employees, contractors or subcontractors (at any tier), of any design, plan, Construction Mode, construction or research pertaining to the Pipeline System or any part thereof; or (3) the physical entry by any Person upon, or the use or occupancy by any Person of, any Federal Land that is the subject of any use or right which is granted or afforded to Permittees, or to their respective agents, employees, contractors or subcontractors (at any tier) in connection with the Pipeline System; *provided, however,* that the provisions of items (1) and (3) of this Section shall not be deemed to apply to liabilities or damages that are caused: (a) by an act of war; or (b) solely by (i) the negligence of the United States, and/or (ii) the negligence or willful misconduct of an agent, employee, contractor or subcontractor (at any tier) of the United States not acting within the scope of his authority or employment, and/or (iii) the negligence or willful misconduct of persons who are authorized to enter upon, use or occupy the damaged property or areas pursuant to any Federal lease, permit, or other written authorization that is issued for any use or purpose other than in connection with the construction, operation, maintenance, or termination of the Pipeline System.

B. Permittees shall be notified in writing of any claim for which indemnity under the provisions of this Section is sought, and such claim shall not be compromised without the written consent of Permittees, which consent Permittees agree shall not be unreasonably withheld or delayed.

C. The regulations of the Department relating to indemnification of the United States against any liability for damages to life, person or property arising from the occupancy or use of the lands under a right-of-way (43 CFR 2801.1–5(f) (1972)) shall not be applicable to this Agreement.

15. Guaranty

A. Upon being notified by the Secretary to do so, each Permittee shall cause to be delivered to the Secretary a valid and unconditional guaranty of the full and timely payment of all liabilities and obligations of the Permittee to the United States under or in connection with this Agreement or any other agreement, permit or authorization to be issued or granted to the Permittees by the Secretary that relates in whole or in part to all or any part of the Pipeline System.

B. It is recognized that a proposed guarantor of a Permittee may be a corporation (or an individual stockholder thereof), a partnership (or an individual partner thereof), an association that is authorized and empowered to sue and be sued and to hold the title to property in its own name (or an individual associate thereof), a joint stock company that is authorized and empowered to sue and be sued and to hold the title to property in its own name (or any individual participant therein), or a business trust (or an individual settlor thereof), and may or may not directly or indirectly own a legal or beneficial interest in the Permittee whose liabilities and obligations are sought to be guaranteed. In the case of multiple guarantors that are acceptable to the Secretary, each shall be severally liable for only its proportionate share of any sum or payment covered by the guaranty.

C. Each guaranty shall be satisfactory to the Secretary in all respects including, without limitation, the form and substance of the guaranty, the financial capability of a proposed guarantor, the availability of such guarantor to service of process, the availability of the assets of such guarantor with respect to the enforcement of judgments against the guarantor, and the number of guarantors that will be necessary to guarantee all of the liabilities and obligations which will be covered by a particular guaranty; *provided, however,* that the Secretary shall not unreasonably withhold his approval with respect to a guaranty or guarantor.

D. The Secretary shall have the right at any time, and from time to time, to require the substitution and delivery of a new form of Guaranty in the event that an outstanding guaranty is held to be invalid or unenforceable, in whole or in part, by a court of competent jurisdiction or, that the controlling law shall, by statute or judicial decision, be so altered as to impair, prevent or nullify the enforcement or exercise of any right or option of the United States under an outstanding guaranty; *provided, however,* that the outstanding guaranty (to the extent of its validity or enforceability, if any) shall continue in full force and effect with respect to any claim, suit, accrued liability or defense thereunder that exists at the time of substitution; *provided further,* that the new form of guaranty; in each such case, shall be required as to all Permittees that at the time of substitution have delivered, or are required to deliver, a guaranty.

E. Each guaranty shall be accompanied by such certificates and opinions of legal counsel as the Secretary may require to establish its validity. The guaranty shall include an appointment of an agent for service of process that is satisfactory to the Secretary.

16. Laws and regulations

A. Permittees, and each of them, shall comply with all applicable Federal laws and regulations, existing or hereafter enacted or promulgated.

B. In any event, Permittees, and each of them, shall comply with: (1) all regulations hereafter promulgated to implement the Trans-Alaska Pipeline Authorization Act, and (2) all applicable regulations hereafter promulgated to implement Section 28 of the Mineral Leasing Act of 1920, as amended.

17. No right of set off

A. With respect to any sum now or hereafter owing, or claimed to be owing, to the United States and that arises out of or is connected in any way with the construction, operation, maintenance or termination of all or any part of the Pipeline System, Permittees, and each of them, shall not set off against, or otherwise deduct from, any such sum:

(1) Any claim or judgment for money of any one or more of the Permittees against the United States not arising out of the construction, operation, maintenance or termination of all or any part of the Pipeline System;

(2) Any claim or judgment for money of any one or more of the Permittees against the United States that arises out of the construction, operation, maintenance or termination of all or any part of the Pipeline System, if the sum now or hereafter owing or claimed to be owing, to the United States is or shall be for any sum or charge required to be paid to the United States pursuant to Section 8, Section 12 or Section 18 hereof; or

(3) Any claim or judgment for money of any one or more of the Permittees against the United States that arises out of, or pursuant to, any statute administered by any department or agency of the United States other than the Department.

18. Right of United States To Perform

A. If, after thirty (30) days, or in an emergency such shorter period as shall not be unreasonable, following the making of a demand therefor by the Authorized Officer, in the manner that is provided in Stipulation 1.6 for giving written notices, Permittees, or their respective agents, employees, contractors or subcontractors (at any tier), shall fail or refuse to perform any of the actions required by the provisions listed in subsection B of this Section, the United States shall have the right, but not the obligation, to perform any or all of such actions at the sole expense of Permittees. Prior to the delivery of any such demand, the Authorized Office shall confer with Permittees, if he deems it practicable to do so, regarding the required action or actions that are included in the demand. The Authorized Officer, following the procedure outlined in subsection F of Section 12 hereof, shall submit to Permittees a statement of the expenses incurred by the United States during the preceding quarter in the performance by the United States of any required action and, in the absence of a dispute, the amounts shown to be due on each such statement shall be paid by Permittees in accordance with the provisions of the said last mentioned subsection. If any one or more of the Permittees shall dispute the amount of any item in any statement that shall be rendered in accordance with the provisions of this Section, the procedures outlined in subsection J of Section 12 shall apply with equal force and effect to any such dispute. Permittees may dispute whether the work involved an action required by a provision listed in subsection B of this Section, whether Permittees' failure or refusal to perform any such action was justified, as well as the reasonableness of the specifications for, and the cost of, such work.

B. Required Action (In General) and Reference: [1]

Survey, map and mark the Right-of-Way—Sec. 6.

Repair, replace, rehabilitate property and natural resources—Sec. 13.

Discharge liens—Sec. 19.

Abate any condition causing or threatening to cause a hazard, harm or damage—Sec. 24.

Provide emergency aid—Sec. 30.

[1] "Sec." refers to Sections of this Agreement. "Stip." refers to the Stipulations, attached as Exhibit D hereto.

Provide an archeologist to perform certain duties—Stip. 1.9.

Remove improvements and equipment and restore land—Stip. 1.10.1.

Put areas "to bed"—Stip. 1.10.2.

Protect certain improvements; remove obstructions; repair damage to public utilities and improvements—Stip. 1.11.

Regulate public access—Stip. 1.12.1.

Provide alternative routes for roads and trails—Stip. 1.12.2.

Provide public crossings—Stip. 1.12.3.

Screen, filter, suppress electronic devices—Stip. 1.13.1.

Post the Right-of-Way against hunting, etc.—Stip. 1.14.1.

Restore survey monuments, etc.—Stip. 1.16.2.

Take measures to protect health and safety; abate hazards—Stip. 1.20.

Provide for environmental briefings—Stip. 2.1.1.

Remove waste—Stip. 2.2.6.2.

Stabilize disturbed areas—Stip. 2.4.2.2.

Remove temporary fill ramps—Stip. 2.4.3.2.

Seed and plant disturbed areas—Stip. 2.4.4.1.

Dispose of excavated material—Stip. 2.4.5.

Provide for uninterrupted movement and safe passage of fish—Stip. 2.5.1.1.

Screen pump intakes—Stip. 2.5.1.2.

Plug, stabilize abandoned water diversion structures—Stip. 2.5.1.3.

Construct levees, etc.—Stip. 2.5.1.4.

Construct new channels—Stip. 2.5.2.2.

Protect Fish Spawning Beds from sediment; construct settling basins—Stip. 2.5.2.3.

Repair damage to Fish Spawning Beds—Stip. 2.5.2.4.

Assure big game passage—Stip. 2.5.4.1.

Remove certain debris—Stip. 2.7.2.5.

Dispose of slash (where "otherwise directed.")—Stip. 2.7.2.8.

Take certain mitigation measures—Stip. 2.8.1.

Restore disturbed areas—Stip. 2.12.1.

Stabilize slopes—Stip. 2.12.2.

Dispose of certain materials—Stip. 2.12.3, Stip. 2.12.4.

Remove equipment and supplies—Stip. 2.12.5.

Clean up, repair, of Oil or other pollutant is discharged—Stip. 2.14.4.

Inspect welds—Stip. 3.2.2.3.

Inspect Pipeline System construction—Stip. 3.2.2.4.

Perform seismic monitoring—Stip. 3.4.2.3.

Construct stilling basins; stabilize pool sides—Stip. 3.6.2.1.

Provide Oil spill containment structures—Stip. 3.11.1, Stip. 3.11.2.

19. Liens

A. Each Permittee shall, with reasonable diligence, discharge any lien aganist Federal Lands that results from any failure or refusal on its part to pay or satisfy any judgment or obligation that arises out of or is connected in any way with the construction, operation, maintenance or termination of all or part of the Pipeline System.

B. However, Permittees shall prevent the foreclosure of any lien against any title, right, or interest of the United States in said lands.

C. The foregoing provisions of this Section shall not be construed to constitute the consent of the United States to the creation of any lien against Federal Lands or to be in derogation of any prohibition or limitation with respect to such liens that may now or hereafter exist.

20. Insolvency

If at any time there shall be filed by or against any Permittee, or any guarantor furnishing a guaranty in accordnce with the provisions of Section 15 hereof, in any court of competent jurisdiction, a petition in bankruptcy or insolvency or for reorganization or for the appointment of a receiver or trustee of all or a portion of the Permittee's or such guarantor's property, or if any Permittee, or any such guarantor, makes an assignment for the benefit of creditors or takes advantage of any insolvency act, and, in the case of an involuntary proceeding, within sixty (60) days after the initiation of the proceeding the Permittee or such guarantor fails to secure a discontinuance of the proceeding, the Secretary may, if the Secretary so elects, at any time thereafter, declare such to be a breach of this Agreement by the Permittee or, in cases involving a guarantor, the Permittee for which the guaranty was furnished.

21. Breach; extent of liability of permittees

A. The liabilities and obligations of each Permittee under this Agreement are joint and several except that the liabilities and obligations of each Permittee are several under the following Sections: 2.D (Purpose of Grant; Limitation of Use to Permittees), 3 (Transportation of Oil), 8 (Use Charge for Right-of-Way), 12 (Reimbursement of Department Expenses), 13.C (Damage to United States Property; Repair, Replacement or Claim for Damages), 14 (Indemnification of United States), 15 (Guaranty), 18 (Right of the United States to Perform), 19.A (Liens), 20 (Insolvency), 22 (Transfer), 32 (Release of Right-of-Way), 33.B and 33.C, to the extent that performance may be required by less than all of the Permittees (Agreements Among Permittees), 34. (Access to Documents), 41 (Authority to Enter Agreement), Stipulation 1.4 (Common Agent), and Stipulation 1.10.1 (Completion of Use); *provided, however,* that as to any obligation to pay money to the United States, each such Permittee shall not be liable for any greater portion thereof than an amount which is equal to the product of the total obligation or liability when multiplied by a fraction, the numerator thereof being the individual Permittee's interest in the Right-of-Way at the time of the breach (such interest being expressed as a percentage for purposes of the numerator), and the denominator thereof being the aggregate of all of the interests in the Right-of-Way that were held by all of the Permittees at the time the obligation becomes due and payable (the aggregate of such interest being expressed as a percentage for purposes of the denominator).

22. Transfer

A. Permittees, and each of them, shall not, without obtaining the prior written consent of the Secretary, Transfer in whole or in part any right, title or interest in this Agreement or the Right-of-Way. Any such Transfer other than with respect to an Involuntary Passage of Title, without in each instance obtaining the prior written consent thereto of the Secretary, shall be absolutely void, and, at the option of the Secretary, shall be deemed to be a breach of this Agreement by each Permittee so violating this Agreement.

B. Any Involuntary Passage of Title with respect to any right, title or interest in this Agreement or the Right-of-Way that shall be attempted or effected without in each instance obtaining the prior written consent thereto of the Secretary shall, to the extent permitted by law, be voidable at the option of the Secretary, and, in addition, at the option of the Secretary, shall be deemed to be a breach of this Agreement by the affected Permittee; *provided, however,* that nothing in this subsection shall be deemed to prohibit, or to limit in any way, the exercise of any right or option of the United States under Section 20 of this Agreement.

C. With respect to any Transfer that shall relate to this Agreement or the Right-of-Way, the Transferor, the Transferee and the guarantor or guarantors, if any, of the Transferee shall apply for the Secretary's written consent to the Transfer by filing with the Secretary all documents or other information that may be required by law or regulation, this Agreement or any other agreement, permit, or authorization of the United States relating to the Pipeline System or any part thereof and, upon request from the Secretary, such other documents and information as may be relevant to the Secretary's determination.

D. Before the Secretary acts in connection with an application for his consent with respect to the Transfer of an interest in the Right-of-Way, the Transferee shall demonstrate, to the satisfaction of the Secretary, that the Transferee is capable of performing all of the liabilities and obligations of the Transferor relating to the interest to be transferred. In considering an application for such consent, the Secretary shall make a determination, in accordance with Section 28(j) of the Mineral Leasing Act of 1920, as amended, concerning: (1) the technical capability of the Transferee, and (2) the financial capability of the Transferee, or of the Transferee together with, if any, its proposed guarantor or guarantors as approved by the Secretary, to perform all of the liabilities and obligations of the Transferor relating to the interest to be transferred.

E. In connection with any Transfer, the Secretary may request the right to audit and/or inspect, in whole or in part, the pertinent books, records, accounts, contracts, commitments, and property of the Transferee and of the proposed guarantor or guarantors, if any, of the Transferee, at the sole expense of the Transferor, which expense shall be paid to the United States upon completion of the inspection and/or audit and before the Secretary acts in connection with the application for his consent to the Transfer. If any such request shall be refused such refusal shall be deemed to be a sufficient reason for the Secretary to withhold his consent to the pertinent Transfer. The Transferee and its guarantor or guarantors, if any, shall consent in writing to the provisions of this subsection when applying for the consent of the Secretary.

F. The Secretary, shall not unreasonably withhold his consent to any Transfer hereunder, but may withhold or revoke his consent to any Transfer if:

(1) At the time of, or before, the consummation of the Transfer, there shall have occurred any breach, by the Transferor or any predecessor of the Transferor, of this Agreement or of any other agreement, permit, or authorization relating to the Pipeline System that the United States may make with, issue to, or grant to the Transferor, and that was not cured to the satisfaction of the United States before the consummation of the Transfer, or

(2) With respect to Transfers other than those referred to in subsection H of this Section, the Transferee, or the Transferee together with, if any, its guarantor or guarantors as approved by the Secretary: (a) is not, or are not, capable, in the judgment of the Secretary, of performing all of the liabilities and obligations of the Transferor relating to the right, title or interest to be transferred, or (b) shall refuse to allow an audit and/or inspection as provided for in subsection E of this Section; or

(3) Applicable laws and regulations in effect at the time of a Transfer shall not have been complied with by the parties to the Transfer.

G. A Permittee seeking to be divested in whole or in part of its right, title, and interest in and to the Right-of-Way and this Agreement in connection with a Transfer shall be released from its liabilities and obligations (accrued, contingent, or otherwise) to the United States under this Agreement to the

extent and limit that the Transferee assumes unconditionally the performance and observance of each such liability and obligation, *provided:*

(1) All of the provisions of this Agreement with respect to the approval or disapproval of the Transfer have been fully complied with to the satisfaction of the Secretary;

(2) The Secretary has consented in writing to the Transfer; and

(3) Thereafter the Transfer and the attendant assumption agreement, if any, are in fact duly consummated on the basis of the documents previously presented to the Secretary for his review, and the Secretary is so notified in writing by the parties to the Transfer.

H. The Secretary shall consent to the Transfer of an interest in the Right-of-Way between:

(1) Any of the Original Permittees, their Affiliates or any of them, or

(2) One or more of the Original Permittees, their Affiliates or any of them, and a corporate Transferee, all of the outstanding capital stock of which Transferee at the time of the Transfer is owned by one or more of the Original Permittees or their Affiliates, or

(3) One or more of the Original Permittees, their Affiliates or any of them, and a partnership consisting of two (2) or more of the Original Permittees or their Affiliates;

provided, that the Transferor or Transferee are not in breach of this Agreement; *provided further,* that all applicable laws and regulations in effect at the time of Transfer are complied with; *provided further,* that the application for any such Transfer be filed with the Secretary within eight (8) years of the Effective Date hereof or prior to completion of construction of the Pipeline at its maximum design capacity (i.e. approximately two million (2,000,000) barrels per day) whichever shall first occur; and *provided further,* that no substantial reduction in the financial worth of the Transferee (or its Parent), or of the Transferee (or its Parent) together with its guarantors, if any, has occurred since the date the Transferee (or its Parent) acquired its original interest in the Right-of-Way.

23. Port Valdez terminal facility

A. The provisions of this Section shall apply to the construction and operation of the terminal facility of the Pipeline System located at Port Valdez, Alaska.

B. Permittees shall maintain and operate a waste-water treatment facility in conjunction with the terminal facility at Port Valdez. All oily-water (including, but not limited to, discharge from fuel tanks, cargo tanks, ballast tanks, and bilges) discharged from any tanker or other seagoing, bulk Oil carrier (hereinafter referred to as a "Vessel") loading at or from the terminal facility shall be received and treated by said waste-water treatment facility. Water discharged from the waste-water treatment facility shall not contain more than 10 parts of oil per million parts of water, on a weekly (seven (7) day) average.

C. At reasonable intervals, but at least once in every five (5) year period, the Authorized Officer and Permittees, at the request of either, shall meet to review and consider in depth: (1) the operation of the waste-water treatment facility; (2) such advances and improvements in water pollution control and waste-water treatment, technology and equipment, as they relate to the terminal facility, as have taken place; and (3) the feasibility of improving the performance of the facility through installation of new or additional equipment, or modification of existing equipment. Consideration of such feasibility shall include consideration of the degree of technological advances that have occurred, costs and economic feasibility, the types of equipment commercially available, and the benefits that would be derived from the installation of new or additional equipment or the modification of existing equipment.

D. Permittees, and their respective agents, employees, contractors and subcontractors (at any tier) shall not release, or suffer to be released, from the terminal facility any Oil to be loaded on any Vessel unless the provisions of subsections E and F of this Section have, in each case, been fully complied with.

E. Prior to loading Oil on any Vessel, Permittees shall require the master thereof to provide Permittees with a legible copy, certified under oath by the master as being true and correct, of:

(1) in the case of Vessels of United States registry, that part of the oil record book of such Vessel that pertains to the voyage of the Vessel to the terminal facility from its last Oil discharge port;

(2) in the case of Vessels of foreign registry that may now or hereafter be required to maintain an oil record book, or similar records, that part of the oil record book, or said records, that pertains to the voyage of the Vessel to the terminal facility from its last Oil discharge port; and

(3) in the case of any Vessel of foreign registry that is not required to maintain an oil record book, or similar records, Permittees shall require the master thereof to provide Permittees with an affidavit, duly sworn to and signed by the master, stating any and all facts bearing upon any discharge of Oil or oily water from the Vessel during its voyage to the terminal facility from its last Oil discharge port.

F. If the said record book entries or affidavit, as provided by the master, disclose:

(1) that the Vessel has discharged any Oil or oily water from its fuel tanks, cargo tanks, bilge, or otherwise, and

(2) that such discharge was not necessary for the safety of the Vessel or its crew,

Permittees shall promptly notify the Authorized Officer of the pertinent facts and shall not load the Vessel or suffer the Vessel to be loaded, unless at the time of such discharge:

(a) The United States Coast Guard or other agency of the United States has promulgated and implemented regulations under one or more treaties, conventions, or statutes that are designed to deter Vessels subject to such treaties, conventions or statutes from discharging any Oil or oily water at sea and that apply to, and can be enforced by the United States Coast Guard or such other agency of the United States against, the offending Vessel; or

(b) In the absence of the aforesaid regulations, or the inapplicability thereof to the offending Vessel, there shall be in effect port rules, approved in writing by the Authorized Officer for the purposes of this subsection F, for the port of Valdez or, as the case may be, the terminal facility, (which rules may provide for a demurrage charge against offending vessels) that are designed to deter any Vessel using the terminal facility from discharging Oil or oily water at sea and that apply to, and can be enforced against, the offending vessel; or

(c) If neither subsection F(a) or F(b) above in this Section shall be applicable, Permittees may proceed subject to applicable laws and regulations, to load the Vessel at the terminal facility; *provided, however,* that during its next return voyage to the terminal facility, one of either of the following alternatives must be complied with before the Vessel can be loaded:

(i) (AA) The Vessel shall, prior to loading, remain for ten (10) consecutive hours (the "Standdown Period") in an area designated by the Authorized Officer, not nearer than fifty (50) nautical miles or farther than one hundred (100) nautical miles from the port of Valdez:

(BB) The Vessel's master shall enter in the ship's log the time and position of the Vessel at the commencement and termination of the Standdown Period, as well as the hourly positions of the Vessel during said period;

(CC) The Vessel's position at the point of departure, upon completion of the Standdown Period, shall not be greater than five (5) nautical miles from the Vessel's position at the commencement of such period; and

(DD) Prior to loading the Vessel, Permittees shall receive from the master of the Vessel a legible copy, certified under oath by the master as being true and correct, of the aforementioned entries in the ship's log; or

(ii) (AA) The Vessel shall proceed to Valdez at a reduced rate of speed so that the voyage to Valdez (from its last port of call before such voyage) requires at least ten (10) hours additional to the period of time the voyage would otherwise have taken; and

(BB) Prior to loading the Vessel, Permittees shall receive from the master of the Vessel a legible copy, certified as being true and correct, of the entries in the ship's log which demonstrate compliance with the aforementioned return-voyage requirements.

Notwithstanding the foregoing provisions of subsections F(c)(i) and F(c)(ii), the Authorized Officer may temporarily waive compliance with the return-voyage requirements (on such terms as the Authorized Officer may prescribe) if, from the ship's log and corroborative evidence, it is clearly demonstrated that compliance would have seriously jeopardized the safety of the ship or crew.

G. If a Vessel shall have been loaded at the terminal facility without being subjected to any of the alternatives that are prescribed in subsection F of this Section, and it should later be determined that the portion of the oil record book, a copy of which was furnished to Permittees prior to such loading, or affidavit, as the case may be, contained any false or misleading statement or did not contain a required entry or statement, and if the entry or statement had been properly made the Vessel would have been subject to the aforesaid alternatives, then the Vessel shall be subject to the provisions of subsections E and F on its return voyage to the terminal facility next following the date on which the Authorized Office notifies Permittees and the owner and/or, if any, the charterer of such Vessel of the aforementioned determination.

H. Permittees shall:

(1) Publish the restrictions placed on the loading of Vessels at the terminal facility under this Section in the port manual for the port of Valdez or, as the case may be, the terminal facility and, if legally permissible, in the tariff or tariffs pertaining to the transportation of Oil through the Pipeline; and

(2) Give the public such other notice of said restrictions as Permittees or the Authorized Officer may, from time to time, consider to be necessary or appropriate.

I. Permittees shall maintain books and records in connection with the operation of the waste-water treatment facility. Said books and records shall at least show, for each Vessel discharging into said facility, the name, tonnage(D.W.T.) and such other information as may be appropriate to identify the Vessel, the date of each discharge, the amount of ballast water discharged on each occasion, the amount of other oily water discharged on each occasion, and the amount of Oil that was loaded on each occasion from the terminal facility.

J. Permittees shall retain, for an appropriate period, as prescribed by the Authorized Officer, all documents furnished to Permittees pursuant to subsections E and F of this Section and the books and records speci-

fied in subsection I of this Section; and the Authorized Officer shall have access thereto at all reasonable times for the purpose of inspection and copying.

K. Permittees shall comply with all Federal, State and local laws and regulations existing or hereafter enacted or promulgated affecting in any manner the construction and operation of the terminal facility. If any such law or regulation governs specifically any particular requirement or standard that is prescribed in this Section, Permittees shall comply with the requirement or standard established by such law or regulation and, so long as compliance is required, Permittees shall be relieved of any obligation to comply with the particular requirement or standard of this Section that is governed by such law or regulation.

24. Duty of permittees to abate

A. Permittees promptly shall abate, either completely, or, as the case may be, as completely as possible using their best efforts, any physical or mechanical procedure, activity, event or condition, existing or occurring at any time: (1) that is susceptible to abatement by Permittees, (2) which arises out of, or could affect adversely, the construction, operation, maintenance or termination of all or any part of the Pipeline System, and (3) that causes or threatens to cause: (a) hazard to the safety of workers or to public health or safety (including but not limited to personal injury or loss of life with respect to any Person or Persons), or (b) serious and irreparable harm or damage to the environment (including but not limited to areas of vegetation or timber, fish or other wildlife populations, or their habitats, or any other natural resource).

B. Permittees shall cause their respective agents, employees, contractors and subcontractors (at any tier) to observe and comply with the foregoing provisions of this Section.

25. Temporary suspension orders of authorized officer

A. The Authorized Officer may at any time order the temporary suspension of any or all construction, operation, maintenance or termination activities of Permittees, their agents, employeees, contractors or subcontractors (at any tier) in connection with the Pipeline System, including but not limited to the transportation of Oil, if in the judgment of the Authorized Officer:

(1) An immediate temporary suspension of such activities is necessary to protect: (a) public health or safety (including, but not limited to, personal injury or loss of life with respect to any Person or Persons); or (b) the environment from immediate, serious, substantial and irreparable harm or damage (including, but not limited to, harm or damage to areas of vegetation or timber, fish or other wildlife populations, or their habitats, or any other natural resource); or

(2) Permittees, their respective agents, employees, contractors or subcontractors (at any tier) are failing or refusing, or have failed or refused, to comply with or observe: (a) any provision of this Agreement necessary to protect public health, safety or the environment; or (b) any order of the Authorized Officer implementing any such provision of this Agreement or of any other agreement, permit or authorization that shall have been duly approved, issued or granted by the Secretary in connection with all or any part of the Pipeline System.

B. The following shall be applicable to any temporary suspension order that may be issued in accordance with the provisions of subsection A of this Section, if the order would have the effect of suspending (1) operation of the entire Pipeline, (2) transportation of Oil through the Pipeline, (3) operation of the entire Valdez terminal facility, or (4) construction of an entire Construction Subdivision:

(a) If the order is issued in accordance with subsection A(1) of this Section, the Authorized Officer shall transmit a copy of the order, and a preliminary report with respect to the order, to the Secretary within six (6) hours after the order has been issued and, thereafter, the Authorized Officer's report and the order will be reviewed promptly by the Secretary; *provided, however,* that nothing herein shall require the Secretary to take any action following such review; or

(b) If the order is to be issued in accordance with subsection A(2) of this Section, the Authorized Officer shall not issue the order unless and until the Secretary gives to the Authorized Officer the Secretary's prior written approval with respect to the order.

C. The Authorized Officer shall give Permittees prior notice of the temporary suspension order as he deems practicable. If circumstances permit, the Authorized Officer shall consult with Permittees, prior to issuing the order, to discuss appropriate measures to (1) forthwith abate or avoid the harm or threatened harm that is the reason for the issuance of the order, or (2) effect compliance with the provision or order, whichever is applicable.

D. After a temporary suspension order has been given by the Authorized Officer, Permittees shall promptly comply with all of the provisions of the order and shall not resume any activity suspended or curtailed thereby except as provided in this Agreement or pursuant to court order.

E. Any temporary suspension order which, in an emergency, is given orally shall be confirmed in writing, as provided for in Stipulation 1.6.2. Each written order or written confirmation of an order shall set forth the reasons for the suspension. Each temporary suspension order shall be limited, insofar as is practicable, to the particular area or activity that is or may be affected by the activities or conditions that are the basis of the order. Each order shall be effective as of the date and time given, unless it specifies otherwise. Each order shall remain in full force and effect until modified or revoked in writing by the Authorized Officer or the Secretary.

F. Resumption of any suspended activity shall be promptly authorized by the Authorized Officer in writing when he is satisfied that (1) the harm or threatened harm has been abated or remedied, or (2) Permittees have effected, or are ready, willing and able to effect compliance with the provision or order, whichever is applicable.

G. Any temporary suspension order that is given or issued in accordance with this Section shall be subject to the provisions of Stipulation 1.5.1.

26. Appeal procedure

A. Appeals from Temporary Suspension Orders of Authorized Officer; Appeals from Denials of Resumption of Suspended Activities

(1) Permittees may appeal directly to the Secretary: (a) any temporary suspension order issued by the Authorized Officer pursuant to Section 25 of this Agreement; and (b) any denial by the Authorized Officer of a request for resumption of activities suspended pursuant to such a temporary suspension order. If a right of appeal is to be preserved, Permittes shall file a notice of appeal with the Secretary within fifteen (15) days from the effective date of the order or denial being appealed. The notice shall set forth with particularity the order or denial being appealed. To perfect an appeal, Permittees shall file with the Secretary within thirty (30) days from the effective date of the order or denial being appealed a statement of the facts of the matter and a statement of the applicable law, supplemented by such documentation and arguments on the facts and the law as Permittees may wish to present to justify modification or reversal of the order or denial. All statements of fact shall be under oath.

(2) Except as provided hereinafter in this Section, the Secretary shall decide the appeal within thirty (30) days from the date Permittees' appeal is perfected. If the Secretary does not render a decision within that time, the appeal shall be considered to have been denied by the Secretary, and such denial shall constitute the final administrative decision of the Department.

(3) Except for any decision that may be made by the Secretary after his review as provided for in subsection B(a) of Section 25 hereof, any decisions of the Secretary, with respect to any appeal within the Department as to any matter arising out of this Agreement, shall constitute the final administrative decision of the Department.

B. Expedited Appeals

(1) Permittees shall be entitled to an expedited appeal to the Secretary from any temporary suspension order, or order denying resumption of suspended activities (except any refusal to issue a Notice to Proceed or the issuance of a Notice to Proceed that may not be substantially in accord with the application therefor), issued by the Authorized Officer and that suspends, or denies resumption of, the following: (a) operation of the entire Pipeline; (b) transportation of Oil through the Pipeline; (c) operation of the entire Valdez terminal facility; or (d) construction of an entire Construction Subdivision.

(2) Permittees may occasionally, from time to time, during construction of the Pipeline System, designate an order not covered by subsection B(1) of this Section but which the Permittees deem critical and which the Secretary shall consider as an expedited appeal. Such designation shall be made in the notice of appeal, and shall be supported by factual information, under oath, to confirm that the affected activity is one of critical importance.

(3) The Secretary shall render a decision so as to dispose of the expedited appeal within the shortest possible time and in all events within seven (7) days of the date of filing of the documents required to perfect an appeal. If the Secretary does not render a decision within such time, the appeal may be deemed by Permittees to have been denied by the Secretary, and such denial shall constitute the final administrative decision of the Department.

C. Appeals with Respect to Notices to Proceed

(1) Permittees may appeal to the Secretary if, with respect to a particular application for a Notice to Proceed: (a) the Authorized Officer has refused to issue the Notice to Proceed within the time prescribed pursuant to Stipulation 1.7.4; or (b) the Authorized Officer has issued a Notice to Proceed not substantially in accord with the application therefor. If the Authorized Officer has not acted within the prescribed time to either issue or deny the issuance of the Notice to Proceed, such failure to act shall be deemed to be a refusal by the Authorized Officer to issue the Notice to Proceed.

(2) The ground or grounds for such an appeal shall be one or more of the following:

(a) The Authorized Officer has construed the applicable Stipulations erroneously; or

(b) The Authorized Officer has imposed arbitrary and capricious requirements to enforce the Stipulations; or

(c) Permittees have made a bona fide effort to meet the requirements of the Authorized Officer, but are unable to comply; or

(d) By failing to act upon the requested Notice to Proceed, within the prescribed

time, the Authorized Officer has been unreasonable.

(3) Each appeal under this subsection shall be subject to the appeal procedure set forth in subsection A of this Section.

27. Requests to resume; appeals

A. If by a temporary suspension order issued pursuant to Section 25 of this Agreement, the Authorized Officer has ordered the suspension of an activity of Permittees, Permittees may at any time thereafter file with the Authorized Officer a request for permission to resume that activity on the ground that the reason for the suspension no longer exists. The request shall contain a statement under oath, of the facts which in Permittees' view support the propriety of resumption.

B. The Authorized Officer shall render a decision, either granting or denying the request, within five (5) days of the date that the request was filed with him. If the Authorized Officer does not render a decision within that time, the request shall be considered denied and Permittee may appeal the denial to the Secretary in accordance with the provisions of Section 26 of this Agreement.

C. If, at the time the request to resume is filed with the Authorized Officer, the Authorized Officer's order suspending the activity is pending before the Secretary pursuant to a perfected appeal, the Authorized Officer shall nonetheless proceed to act upon the request. If the Authorized Officer grants the request that action shall be determinative of both the request and the pending appeal.

28. Nondiscrimination and equal employment opportunity

A. Permittees shall assure that no person shall on the grounds of race, creed, color, national origin or sex be excluded from receiving or participating in any activity, including all aspects of employment and contracting, conducted under any permit, right-of-way, public land order, or other Federal authorization granted or issued under the Trans-Alaska Pipeline Authorization Act. Permittees shall comply with all regulations that shall be promulgated by the Secretary to implement this provision.

B. Permittees agree that, during the period of construction of the Pipeline System and for so long as the Pipeline System, or any portion thereof, shall be in operation, or for so long as this Agreement shall be in effect, whichever is the longer:

(1) Permittees will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. Permittees will take affirmative action to ensure that applicants are employed, and that employees are equally treated during employment, without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Permittees agree to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Authorized officer setting forth the provisions of this equal opportunity clause.

(2) Permittees will, in all solicitations or advertisements for employees placed by or on behalf of Permittees, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.

(3) Permittees will send to each labor union or representative of workers with which Permittees have a collective bargaining agreement or other contract or understanding, a notice, to be provided by the Authorized Officer, advising the labor union or workers' representative of Permittees' commitments under this equal opportunity clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(4) Permittees will comply with Executive Order No. 11246 of September 24, 1965, as amended, and rules and regulations and relevant orders of the Secretary of Labor.

(5) Permittees will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, as amended, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to Permittees' books, records, and accounts by the Authorized Officer and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(6) In the event of Permittees' noncompliance with this equal opportunity clause or with any of said rules, regulations or orders, this Agreement may be terminated or suspended in whole or in part by the Secretary, in accordance with the provisions of Section 403 of the Act of November 16, 1973, 87 Stat. 590 (1973) and in the manner provided in Section 31 hereof, and Permittees may be declared ineligible for further government contracts in accordance with procedures authorized in Executive Order No. 11246 of September 24, 1965, as amended, and such other sanctions may be imposed and remedies invoked as provided in Executive Order No. 11246 of September 24, 1965, as amended, or by rule, regulation, or order of the Secretary of Labor, or as othewise provided by law.

(7) Permittees will include the provisions of an equal opportunity clause as established by regulation of the Secretary in every contract, subcontract or purchase order unless exempted so that such provisions will be binding upon each contractor, subcontractor (at any tier) or vendor. Permittees will take such action with respect to any contract, subcontract, or purchase order as the Authorized Officer may direct as a means of enforcing such provisions including sanctions for noncompliance; *provided, however,* that in the event Permittees become involved in or are threatened with litigation with a contractor, subcontractor (at any tier) or vendor as a result of such direction by the Authorized Officer, Permittees may request the United States to enter into such litigation to protect the interests of the United States.

Permittees further agree that they will be bound by the equal opportunity clause (i.e., subsections (1) through (7) of this subsection B) with respect to their own employment practices when they participate in federally assisted construction work.

C. Permittees agree that they will assist and cooperate actively with the Authorized Officer and the Secretary of Labor in obtaining the compliance of contractors and subcontractors (at any tier) with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, pursuant to the Executive Order, that they will furnish the Authorized Officer and the Secretary of Labor such information as they may require for the supervision of such compliance, and that they will otherwise assist the Authorized Officer in the discharge of the Department's primary responsibility for securing compliance.

D. Permittees further agree that they will refrain from entering into any contract or contract modification subject to Executive Order No. 11246 of September 24, 1965, with a contractor debarred from Government contracts and federally assisted construction contracts and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the Authorized Officer or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order. In addition, Permittees agree that if they fail or refuse to comply with these undertakings, the Secretary may take any or all of the following actions: terminate or suspend the Right-of-Way in whole or in part, in accordance with the provisions of Section 403 of the Act of November 16, 1973, 87 State. 590 (1973), and in the manner provided in Section 31 hereof; refrain from extending any further assistance to Permittees under the program with respect to which the failure or refusal occurred until satisfactory assurance of future compliance has been received from Permittees; and refer the case to the Department of Justice for appropriate legal proceedings.

E. By accepting this Agreement, Permittees certify that Permittees do not and will not maintain or provide for Permittees' employees any Segregated Facilities at any of Permittees' establishments and that Permittees do not and will not permit Permittees' employees to perform their services at any location, under Permittees' control, where Segregated Facilities are maintained. Permittees agree that a breach of this certification is a violation of the equal opportunity clause of this Agreement. As used in this certification, the term "Segregated Facilities" means, but is not limited to, any waiting rooms, work areas, rest rooms, and wash rooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees which are segregated by explicit directive or are in fact segregated on the basis of race, color, religion, or national origin, because of habit, local custom or otherwise. Permittees further agree that (except where Permittees have obtained identical certifications from proposed contractors and sub contractors (at any tier) for specific time periods) Permittees will obtain identical certifications from proposed contractors and subcontractors (at any tier) prior to the award of contacts or subcontracts exceeding $10,000 which are not exempt from the provisions of the equal opportunity clause; that Permittees will retain such certifications in Permittees' files; and that Permittees will forward the following notice to such proposed contractors and subcontractors (except where the proposed contractors or subcontractors have submitted identical certifications for specific time periods): "Notice to Prospective Contractors and Subcontractors of Requirement for Certification of Nonsegregated Facilities." A certification of Nonsegregated Facilities, as required by the order (32 F.R. 7439, May 19, 1967) on Elimination of Segregated Facilities, by the Secretary of Labor, must be submitted prior to the award of a contract or subcontract exceeding $10,000 which is not exempt from the provisions of the equal opportunity clause. The certification may be submitted either for each contract and subcontract or for all contracts and subcontracts during a period (i.e., quarterly, semiannually, or annually).

29. Training of Alaska Natives

A. Permittees shall enter into an Agreement with the Secretary regarding recruitment, testing, training, placement, employment, and job counseling of Alaska Natives.

B. During construction and operation of the Pipeline System, Permittees shall conduct a preemployment and on-the-job training program for Alaska Natives designed to qualify them for initial employment in connection with the Pipeline System and for advancement to higher paying positions thereafter.

C. Permittees shall do everything practicable to secure the employment, in connection with the Pipeline System, of those Alaska Natives who successfully complete Permittees' training program. Permittees shall inform the Authorized Officer of the discharge from such employment of each and every Alaska Native and of the reason therefor, in advance of such discharge whenever

possible or, if advance notice is impossible, as soon thereafter as is practicable.

D. Permittees shall furnish such information and reports concerning Alaska Native employment as the Authorized Officer shall require from time to time.

30. Native and other subsistence

A. To the extent practicable, Permittees shall not damage any fish, wildlife or biotic resources in the general area of the Right-of-Way upon which Persons living in the area rely for subsistence purposes; and Permittees will comply promptly with all requirements and orders of the Secretary to protect the interests of Persons living in the general area of the Right-of-Way who rely on the fish, wildlife and biotic resources of the area for subsistence purposes.

B. Upon the order of the Secretary, Permittees shall provide emergency subsistence and other aid, as required by the Secretary, to any affected Alaska Native, Native organization or other Persons pending expeditious filing of, and determination of, a claim by such Alaska Native, Native organization or other Person under Section 204(a) of the Trans-Alaska Pipeline Authorization Act. The Secretary's decision to issue an order may be based on statements, made under oath, by such Alaska Native, Native organization or other Person seeking emergency aid.

31. Termination or suspension of right-of-way

A. Any failure or refusal of any Permittee, its agents, employees, contractors or subcontractors (at any tier), or any of them, to observe or comply substantially with any applicable provision of Section 28 of the Mineral Leasing Act of 1920, as amended, the Trans-Alaska Pipeline Authorization Act, the regulations of the Secretary implementative thereof, or any provision of this Agreement required or authorized by such statutes, shall be deemed to constitute a breach of this Agreement, said breach being determined to be joint and several or several according to the provisions of Section 21 hereof, and, at the option of the Secretary, may be grounds for termination or formal suspension of such Permittee's interest in the Right-of-Way; *provided, however,* if, as determined in accordance with the provisions of Section 21 hereof, the breach results in several (as opposed to joint and several) liability, the interest in the Right-of-Way of a Permittee which is not liable for the breach shall not be subject to termination or formal suspension on account of the breach.

B. The failure or refusal of Permittees to proceed with reasonable diligence to construct the Pipeline shall be grounds for termination or formal suspension of the Right-of-Way in a proceeding brought under Section 28(o) of the Mineral Leasing Act, as amended; *provided, however,* that the Right-of-Way shall not be terminated or suspended if the failure to proceed to construct the Pipeline is due to circumstances beyond the control of the Permittees.

C. Abandonment of the Right-of-Way shall not constitute a breach of this Agreement but may, at the option of the Secretary, be grounds for termination of the Right-of-Way. Deliberate failure of Permittees, for any continuous two-year period (whether or not calculated on a calendar-year basis), to use the Right-of-Way for the purpose for which it was granted shall constitute a rebuttable presumption of abandonment of the Right-of-Way. However, where such failure to use the Right-of-Way is due to circumstances not within Permittees' control, the Secretary is not required to commence proceedings under Section 28(o) of the Mineral Leasing Act of 1920, as amended.

D. Administrative proceedings to treminate or formally suspend the Right-of-Way under subsections A and B of this Section shall be conducted pursuant to Title 5, United States Code, Section 554, and the applicable regulations of the Secretary.

E. Before the Secretary authorizes the commencement of any administrative proceeding under Title 5, United States Code, Section 554, for the termination or formal suspension of any interest in the Right-of-Way, the Authorized Officer shall give the affected Permittee or Permittees notice in writing of the alleged ground or grounds for termination or formal suspension, with sufficient particularity to enable the Permittee or Permittees to cure if the ground or grounds that are alleged constitute a breach of this Agreement. The Permittee or Permittees shall have:

(a) thirty (30) days, in the case of any failure or refusal to pay money, and

(b) sixty (60) days in all other cases,

from (and not including) the date of delivery of the notice within which to cure the alleged breach or breaches of this Agreement. If the alleged breach or breaches (other than with respect to the payment of money) cannot be cured within sixty (60) days, the Permittee or Permittees shall be entitled to such additional time as may be necessary to cure; *provided, however,* that the affected Permittee or Permittees (whose interest in the Right-of-Way would be terminated or formally suspended if the United States prevailed in a proceeding to terminate or formally suspend the interest on the ground or grounds asserted in the notice) first demonstrate to the satisfaction of the Authorized Officer that the necessary curative actions were undertaken promptly and have been diligently prosecuted towards completion; *provided further,* that the aforesaid additional time to cure shall not exceed ninety (90) days from (and not including) the last day of the said sixty (60) day period, without the prior written consent of the Authorized Officer, which shall specify the last day (to be determined by the Authorized Officer) upon which the curative action must be completed to the satisfaction of the Authorized Officer. The consent of the Authorized Officer to additional time (in excess of the said ninety (90) day period) to cure shall not be unreasonably withheld, and shall normally be given in situations involving physical activities of Permittees in connection with construction, maintenance, operation or termination of the Pipeline which Permittees can demonstrate require more time.

F. The foregoing provisions of subsection E of this Section shall not apply with respect to a breach under any one or more of the following Sections of the Agreement: 20 (Insolvency), 24 (Duty of Permittees to Abate), 25 (Temporary Suspension of Activities).

32. Release of right-of-way

A. In connection with the relinquishment, abandonment or other termination before the expiration of the grant of the Right-of-Way, of any right or interest in the Right-of-Way, and/or in the use of all or any part of the lands subject to the Right-of-Way, each Permittee holding such right or interest shall promptly execute and deliver to the United States, through the Authorized Officer, a valid instrument of release in recordable form, which shall be executed and acknowledged with the same formalities as a deed. The instrument of release shall contain, among other things, appropriate, recitals, a description of the pertinent rights and interests, and, for the benefit of the United States and its grantees or assigns, express representations and warranties by the Permittee that it is the sole owner and holder of the rights or interests described therein and that such rights or interests are free and clear of all liens, equities or claims of any kind requiring or that may require the consent of a third party, claiming in whole or in part by, through or under the Permittee, for the valid release or extinguishment thereof, except for such that are owned or claimed by third parties which have joined in the execution of the release. The form and substantive content of each instrument of release shall be approved by the Authorized Officer but, except as otherwise expressly provided for above in this subsection in no event shall any such instrument operate to increase the then-existing liabilities and obligations of the Permittee furnishing the release.

B. Each release shall be accompanied by such resolutions and certifications as the Authorized Officer may require in connection with the power or the authority of the Permittee, or of any officer or agent acting on its behalf, to execute, acknowledge or deliver the release.

C. Neither the tender, nor the approval and/or acceptance, of any such release shall operate as an estoppel or waiver of any claim or judgment against a Permittee or to relieve or discharge, in whole or in part, any Permittee of and from any of its then-existing liabilities or obligations (accrued, contingent or otherwise); and, notwithstanding any such tender or delivery, or any approval of the Authorized Officer, if a release shall contain any provision that operates, or that by implication might operate, to discharge or relieve, in whole or in part, a Permittee of and from any of its liabilities or obligations (accrued, contingent or otherwise) or that operates or might operate as an estoppel or waiver of any claim or judgment against a Permittee, or as a covenant not to sue, such provision shall be, and shall be deemed to be, void and of no effect whatsoever insofar as it would have the effect of so discharging or relieving a Permittee or operating as an estoppel, waiver or covenant not to sue.

33. Agreements among permittees

A. The Original Permittees, and each of them, represent and covenant with the United States that they have entered into only the following agreements, and no other agreements, written or oral (excluding prior agreements that no longer have any force or effect), which establish each Original Permittee's interest in the Pipeline System venture and each Original Permittee's relationships with the common agent, as referred to in Stipulation 1.4, for all or any phase of the construction, operation, maintenance and termination of the Pipeline System or any part thereof:

(1) Agreement entitled "Trans-Alaska Pipeline System Agreement", dated as of August 27, 1970, by and among Atlantic Pipe Line Company,* BP Pipe Line Corporation,* Humble Pipe Line Company,* Amerada Hess Corporation, Home Pipe Line Company, Mobil Pipe Line Company, Phillips Petroleum Company, and Union Oil Company of California, with Exhibit "C", entitled "Enabling Agreement", annexed thereto;

(2) Agreement entitled "First Supplemental Agreement", dated as of August 27, 1970, by the same parties;

(3) Agreement entitled "Second Supplemental Agreement", dated as of August 27, 1970, by the same parties;

(4) Agreement entitled "Third Supplemental Agreement", dated as of August 27, 1970, by the same parties;

*ARCO Pipe Line Company, a Delaware corporation, represents and covenants that it is the successor by merger to all of the rights and obligations of Atlantic Pipe Line Company. Sohio Pipe Line Company, a Delaware corporation, represents and covenants that it is the successor by marger to all of the rights and obligations of BP Pipe Line Corporation. Exxon Pipeline Company, a Delaware corporation, represents and covenants that it is the same corporation as Humble Pipe Line Company, but that its name has been duly changed to "Exxon Pipeline Company."

(5) Agreement entitled "Fourth Supplemental Agreement", dated as of August 27, 1970, by the same parties;

(6) Agreement entitled "Fifth Supplemental Agreement" dated as of August 27, 1970, by the same parties;

(7) Agreement entitled "Agreement for the Design and Construction of the Trans-Alaska Pipeline System", dated as of August 27, 1970, by and among Atlantic Pipe Line Company, BP Pine Line Corporation, Humble Pipe Line Company, Amerada Hess Corporation, Home Pipe Line Company, Mobil Pipe Line Company, Phillips Petroleum Company, Union Oil Company of California, and Alyeska Pipeline Service Company;

(8) Agreement entitled "Shareholders Agreement for Alyeska Pipeline Service Company", dated as of August 27, 1970, by the same parties as those listed with respect to the agreement referred to immediately above;

(9) Assignment, Assumption, Release and Consent Agreement, dated as of August 28, 1970, in connection with the transfer by Home Pipe Line Company to the other participating companies of all of its rights, title and interest in the Pipeline System and in the foregoing agreements and as a shareholder in and to Alyeska Pipeline Service Company.

(10) Assignment, Conveyance, and Transfer Agreement, dated December 11, 1973, in connection with the transfer by Mobil Pipe Line Company to Mobil Alaska Pipeline Company, a Delaware Corporation, of all of the former company's rights under all agreements relating to the Trans-Alaska Pipeline System, to which the former company is a party, and all real or personal property in which the former company may have acquired an ownership interest pursuant to such agreements, and under which Assignment, Conveyance and Transfer Agreement Mobil Alaska Pipeline Company assumes all undischarged obligations of Mobil Pipe Line Company under any and all of the above mentioned Trans-Alaska Pipeline System agreements, together with certain supporting documents (five in number) each dated December 11, 1973; and

(11) Assignment, Conveyance, and Transfer Agreement, dated January 8, 1974, in connection with the transfer by Union Oil Company of California to Union Alaska Pipeline Company, a California Corporation, of all of the former company's rights under all agreements relating to the Trans-Alaska Pipeline System to which the former company is a party, and all real or personal property in which the former company may have acquired an ownership interest pursuant to such agreements, and under which Assignment, Conveyance and Transfer Agreement Union Alaska Pipeline Company assumes all undischarged obligations of Union Oil Company of California under any and all of the above mentioned Trans-Alaska Pipeline System agreements.

B. Said agreements are referred to collectively as the "Ownership Agreements." Each affected Permittee shall file promptly with the Authorized Officer true and complete copies of all modifications of the Ownership Agreements and of all instruments superseding, supplementing, cancelling or rescinding, in whole or in part, any one or more of the Ownership Agreements.

C. In the event Permittees execute an "Operating Agreement," as contemplated in Section 5.1 of the agreement described in subsection A(1) above in this Section, or any like or similar agreement with respect to the operation, maintenance, or termination of all or any part of the Pipeline System, Permittees shall file promptly with the Authorized Officer a true and complete copy thereof, together with like copies of all modifications of, and all agreements superseding, supplementing, cancelling or rescinding, in whole or in part, the Operating Agreement or any such like or similar agreement.

34. Access to documents

A. As to any documents or records not filed (or required to be filed under any other provision of this Agreement) with the Secretary or the Authorized Officer that shall be relevant to the exercise or enforcement by the Secretary of his authority or the rights of the United States under or in connection with this Agreement or with respect to all or any part of the Pipeline System, the Secretary shall have the right, after notice to the affected Permittee, to inspect and copy: (1) any document or record which a Permittee is required by this Agreement to make or maintain, (2) any document or record that at any time has been filed by a Permittee with any governmental department or agency, access to which is not prohibited or limited by law or regulation, or (3) any abstract, summary or other document that may have been prepared by any governmental department or agency in connection with any document or record referred to in (2) above.

B. Subject to the requirement that the documents or records, herein below referred to, shall be relevant to the exercise or enforcement by the Secretary of his authority or the rights of the United States under or in connection with this Agreement or with respect to all or any part of the Pipeline System, the Secretary, after notice to the affected Permittee, may inspect and, with the consent of the affected Permittee (which consent each Permittee agrees will not be unreasonably withheld or delayed), may copy any document or record that has been or may hereafter be filed by a Permittee with any governmental agency, access to which is prohibited or limited by law or regulation, and any abstract, summary or other document that may have been prepared by a governmental department or agency in connection with any such document or record; *provided, however,* that the rights of the Secretary under this subsection may be exercised only if, and to the extent that, this provision constitutes a valid waiver of any such prohibition or limitation.

C. Nothing in this Section shall be deemed to limit, prohibit, or waive any right or privilege of the United States, and particularly of the Secretary, to inspect or copy any document or record under any authority granted pursuant to law or regulations.

35. Rights of third parties

The parties hereto do not intend to create any rights under this Agreement that may be enforced by third parties for their own benefit or for the benefit of others.

36. Covenants independent

Each and every covenant contained in this Agreement is, and shall be deemed to be, separate and independent of, and not dependent on, any other covenant contained in this Agreement.

37. Partial invalidity

If any part of this Agreement is held invalid or unenforceable, the remainder of this Agreement shall not be affected and shall be valid and enforced to the fullest extent permitted by law.

38. Waiver not continuing

The waiver by any party hereto of any breach of any provision of this Agreement by any other party hereto, whether such waiver be expressed or implied, shall not be construed to be a continuing waiver or a waiver of, or consent to, any subsequent or prior breach on the part of such other party, of the same or any other provision of this Agreement.

39. Remedies cumulative; equitable relief

Except as otherwise expressly provided in subsections B and D of Section 13 of this Agreement, no remedy conferred by this Agreement upon or reserved to the United States or to Permittees is intended to be exclusive of any other remedy provided for by this Agreement or by law, but each shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing in equity or at law; and the United States, in a proper action instituted by it, may seek a decree against a Permittee or Permittees for specific performance, injunctive or other equitable relief, as may be appropriate.

40. Section headings

The section headings in this Agreement are for convenience only, and do not purport to, and shall not be deemed to, define, limit or extend the scope or intent of the section to which they pertain.

41. Authority to enter agreement

Each Original Permittee represents and warrants to the United States that: (1) it is duly authorized and empowered under the applicable laws of the State of its incorporation and by its charter and by-laws to enter into and perform this Agreement in accordance with the provisions hereof; (2) its board of directors, or duly authorized executive committee, has duly approved, and has duly authorized, the execution, delivery and performance by it of this Agreement; (3) all corporate and shareholder action that may be necessary or incidental to the approval of this Agreement, and the due execution, delivery and performance hereof by Permittee, has been taken; and (4) that all of the foregoing approvals, authorizations and actions are in full force and effect at the time of the execution and delivery of this Agreement.

In witness whereof, the parties hereto have duly executed this Agreement as of the date first above written.

UNITED STATES OF AMERICA
By /s/ ROGERS C. B. MORTON
Secretary of the Interior

AMERADA HESS CORPORATION
By /s/ BERNARD T. DEVERIN
Senior Vice President

ARCO PIPE LINE COMPANY
By /s/ C. T. CARTER
President

EXXON PIPELINE COMPANY
By /s/ W. S. SPANGLER
President

MOBIL ALASKA PIPELINE COMPANY
By /s/ E. J. WACKER, JR.
Vice President

PHILLIPS PETROLEUM COMPANY
By /s/ CARSTENS SLACK
Vice President

SOHIO PIPE LINE COMPANY
By /s/ ALLEN D. DORRIS
President

UNION ALASKA PIPELINE COMPANY
By /s/ SAM A. SNYDER
Vice President

EXHIBIT A—LIST OF APPLICATIONS AND ACCOMPANYING ALIGNMENT MAP AND SITE LOCATION DRAWINGS IDENTIFYING THE GENERAL ROUTE OF THE PIPELINE

A. The general route of the Pipeline is identified in the following applications, alignment map and site location drawings, filed with the Bureau of Land Management:

(1) Alignment of the centerline of the line pipe—

(a) *Applications*
BLM serial numbers
AA–5847—sheets 1 to 26 inclusive
F–12505—sheets 26 to 138 inclusive

(b) *Description of Alignment Map*
Alyeska Pipeline Service Company
Trans Alaska Pipeline System
Dwg. No. AL—00——G2
Sheets 1–138, inclusive (143 sheets in all, including 25A, 36A, 53A, 114A and 119A)

Prudhoe Bay to Valdez
48" Oil Pipeline Alignment Map
Scale: 1"=1,000'

(c) *Date of Survey*

Engineer's Statement attached to Sheet 1 indicates that survey was made commencing August 19, 1970 through February 16, 1973 (and continuing as minor realignments occur) and that such survey is accurately represented upon the aforesaid sheets of the map with certain exceptions that are noted on individual engineer's statements.

(d) *Date Alignment Map was filed*

September 19, 1973

(e) *BLM office where filed*

Alaska State Office, Bureau of Land Management, 555 Cordova Street, Anchorage, Alaska

(2) Locations of Certain Related Facilities—

Related facility	Applications BLM serial No.	Alyeska site location drawing No.	Drawing date
(a) Pump stations:			
No. 2	F-15422	D-32-L 500	Jan. 12, 1972.
No. 3	F-15424	D-33-L 500	Do.
No. 4	F-15426	D-34-L 500	Do.
No. 5	F-15428	D-35-L 500	Do.
No. 6	F-15430	D-36-L 500	Do.
No. 7	F-15432	D-37-L 502	Do.
No. 8	F-15434	D-38-L 501	Do.
No. 10	F-15436	D-40-L 500	Do.
No. 11	AA-6690	D-41-L 500	Do.
No. 12	AA-6991	D-42-L 500	Do.
(b) Mechanical refrigeration equipment sites:			
No. 1		D-00-L 96	No date.
No. 2		D-00-L 97	Do.
No. 3		D-00-L 98	Do.
No. 4		D-00-L 99	Do.
No. 5		D-00-L 100	Do.
No. 6		D-00-L 101	Do.
No. 7		D-00-L 102	Do.
No. 8		D-00-L 103	Do.
No. 9		D-00-L 104	Do.
(c) Pump station communication sites:			
No. 2	F-15423	D-32-L 501	Jan. 12, 1972.
No. 3	F-15425	D-33-L 501	Do.
No. 4	F-15427	D-34-L 501	Do.
No. 5	F-15429	D-35-L 501	Do.
No. 6	F-15431	D-36-L 502	Do.
No. 7	F-15433	D-37-L 503	Aug. 29, 1972.
No. 8	F-15435	D-38-L 502	Jan. 12, 1972.
No. 10	F-15437	D-40-L 501	Do.
No. 11	AA-6992	D-41-L 501	Do.
No. 12	AA-6993	D-42-L 501	Do.
(d) Basic communication sites:			
Valdez Terminal		D-60-L 559	Dec. 17, 1973.
Keystone		D-60-L 511	June 22, 1973.
Ptarmigan		D-60-L 540	Nov. 3, 1973.
Tsina		D-60-L 513	June 22, 1973.
Tiekel		D-60-L 541	Nov. 5, 1973.
PS No. 12 Passive		D-60-L 543	Do.
Kinball		D-60-L 542	Do.
Stuck		D-60-L 544	Do.
Gakona		D-60-L 516	June 22, 1973.
Round Top		D-60-L 545	Nov. 3, 1973.
Yost		D-60-L 546	Oct. 31, 1973.
Nicole Knot		D-60-L 547	Nov. 1, 1973.
Donnelly No. 2		D-60-L 548	Nov. 4, 1973.
Aggie		D-60-L 549	Nov. 3, 1973.
West		D-60-L 522	June 22, 1973.
Livengood		D-60-L 550	Nov. 4, 1973.
Bench		D-60-L 551	Nov. 3, 1973.
Hamlin		D-60-L 524	June 22, 1973.
Fish		D-60-L 552	Oct. 31, 1973.
Eagle		D-60-L 526	June 22, 1973.
Coldfoot		D-60-L 527	Do.
Kaanuk		D-60-L 553	Nov. 3, 1973.
Table Mountain		D-60-L 529	June 22, 1973.
Margaret Hill		D-60-L 554	Oct. 26, 1973.
Atigun		D-60-L 555	Nov. 3, 1973.
Twin Glacier		D-60-L 539	June 22, 1973.
Tea Lake		D-60-L 556	Nov. 27, 1973.
Galbraith		D-60-L 557	Do.
Slope		D-60-L 535	June 22, 1973.
Costa Hill		D-60-L 558	Oct. 30, 1973.
Franklin Bluffs		D-60-L 537	June 22, 1973.
Stuart		D-60-L 504	Do.
Ross Dome	F-12139	D-60-L 560	Dec. 17, 1973.
(e) Remote control block valve equipment sites:			
No. 98		D-00-L 33	May 16, 1973.
No. 100		D-00-L 31	Do.
No. 101		D-00-L 29	Do.
No. 102		D-00-L 27	Do.
No. 103		D-00-L 25	Do.
No. 104		D-00-L 23	Do.
No. 109		D-00-L-21	Do.
No. 113		D-00-L 19	Do.
No. 115		D-00-L 17	Do.
No. 116		D-00-L 15	Do.
No. 117		D-00-L 13	Do.
No. 118		D-00-L 11	Do.
No. 119		D-00-L 9	Do.
No. 123		D-00-L 7	Do.
No. 125		D-00-L 5	Do.
No. 51		D-00-L 65	Do.
No. 53		D-00-L 63	Do.
No. 54		D-00-L 61	Do.
No. 56		D-00-L 59	Do.
No. 58		D-00-L 55	Do.
No. 57		D-00-L 57	Do.
No. 59		D-00-L 53	Do.
No. 60		D-00-L 51	Do.
No. 62		D-00-L 49	Do.
No. 65		D-00-L 47	Do.
No. 67		D-00-L 45	Do.
No. 68		D-00-L 43	Do.
No. 88		D-00-L 41	Do.
No. 91		D-00-L 39	Do.
No. 96		D-00-L 37	Do.
No. 97		D-00-L 35	Do.
No. 31		D-00-L 95	Do.
No. 32		D-00-L 93	Do.
No. 33		D-00-L 91	Do.
No. 34		D-00-L 89	Do.
No. 35		D-00-L 87	Do.
No. 36		D-00-L 85	Do.
No. 37		D-00-L 83	Do.
No. 39		D-00-L 81	Do.
No. 40		D-00-L 79	Do.
No. 42		D-00-L 77	Do.
No. 43		D-00-L 75	Do.
No. 44		D-00-L 73	Do.
No. 45		D-00-L 71	Do.
No. 47		D-00-L 69	Do.
No. 49		D-00-L 67	Do.
(f) Communication Facilities at Valve Sites:			
No. 31	F-19621	D-00-L 94	No date.
No. 32	F-19622	D-00-L 92	Do.
No. 33	F-19623	D-00-L 90	Do.
No. 34	F-19624	D-00-L 88	Do.
No. 35	F-19625	D-00-L 86	Do.
No. 36	F-19626	D-00-L 84	Do.
No. 37	F-19627	D-00-L 82	Do.
No. 39	F-19628	D-00-L 80	Do.
No. 40	F-19629	D-00-L 78	Do.
No. 42	F-19630	D-00-L 76	Do.
No. 43	F-19631	D-00-L 74	Do.
No. 44	F-19632	D-00-L 72	Do.
No. 45	F-19633	D-00-L 70	Do.
No. 47	F-19634	D-00-L 68	Do.
No. 49	F-19635	D-00-L 66	Do.
No. 51	F-19636	D-00-L 64	Do.
No. 53	F-19637	D-00-L 62	Do.
No. 54	F-19638	D-00-L 60	Do.
No. 56	F-19639	D-00-L 58	Do.
No. 57	F-19640	D-00-L 56	Do.
No. 58	F-19641	D-00-L 54	Do.
No. 59	F-19642	D-00-L 52	Do.
No. 60	F-19643	D-00-L 50	Do.
No. 62	F-19644	D-00-L 48	Do.
No. 65	F-19645	D-00-L 46	Do.
No. 67	F-19646	D-00-L 44	Do.
No. 68	F-19647	D-00-L 42	Do.
No. 88	F-19648	D-00-L 40	Do.
No. 91	F-19649	D-00-L 38	Do.
No. 96	F-19650	D-00-L 36	Do.
No. 97	F-19651	D-00-L 34	Do.
No. 98	F-19652	D-00-L 32	Do.
No. 100	AA-8499	D-00-L 30	Do.
No. 101	AA-8500	D-00-L 28	Do.
No. 102	AA-8501	D-00-L 26	Do.
No. 103	AA-8502	D-00-L 24	Do.
No. 104	AA-8503	D-00-L 22	Do.
No. 109	AA-8504	D-00-L 20	Do.
No. 113	AA-8505	D-00-L 18	Do.
No. 115	AA-8506	D-00-L 16	Do.
No. 116	AA-8507	D-00-L 14	Do.
No. 117	AA-8508	D-00-L 12	Do.
No. 118	AA-8509	D-00-L 10	Do.
No. 119	AA-8510	D-00-L 8	Do.
No. 123	AA-8511	D-00-L 6	Do.
No. 125	AA-8512	D-00-L 4	Do.
(g) Erosion Control Structure Sites:			
Unnamed Creek		C-00-L-1041	Aug. 31, 1973.
Brown Creek		C-00-L 1042	Do.
Lowe River		C-00-L 1043	Do.
Sheep Creek		C-00-L 1044	Do.
Tsina River No. 1		C-00-L 1045	Do.
Do		C-00-L 1046	Do.
Tsina River No. 3		C-00-L 1047	Do.
Tiekel River No. 1		C-00-L 1048	Do.
Tiekel River No. 3		C-00-L 1049	Do.
Tiekel River		C-00-L 1050	Do.
McCallum Creek		C-00-L 1051	Do.
Phelan Creek		C-00-L 1052	Do.
Phelan Creek No. 2		C-00-L 1053	Do.
Do		C-00-L 1054	Do.
Do		C-00-L 1055	Do.
Do		C-00-L 1056	Do.
Do		C-00-L 1057	Do.
Phelan Creek		C-00-L 1058	Do.
Phelan Creek		C-00-L 1059	Do.
Phelan Creek No. 2		C-00-L 1060	Do.
Phelan Creek No. 2		C-00-L 1061	Do.
Phelan Creek		C-00-L 1062	Do.
Phelan Creek		C-00-L 1063	Do.
Do		C-00-L 1064	Do.
Do		C-00-L 1065	Do.
Do		C-00-L 1066	Do.
Delta River No. 1		C-00-L 1067	Do.
Do		C-00-L 1068	Do.
Do		C-00-L 1069	Do.
Do		C-00-L 1070	Do.
Do		C-00-L 1071	Do.

Related facility	Applications BLM serial No.	Alyeska site location drawing No.	Drawing date
(g) Erosion Control Structure Sites—Continued			
Delta River No. 2		C-00-L 1072	Aug 31, 1973
Do		C-00-L 1073	Do.
Do		C-00-L 1074	Do.
Do		C-00-L 1075	Do.
Do		C-00-L 1076	Do.
Delta River No. 3		C-00-L 1077	Do.
Do		C-00-L 1078	Do.
Do		C-00-L 1079	Do.
Do		C-00-L 1080	Do.
Do		C-00-L 1081	Do.
Do		C-00-L 1082	Do.
Do		C-00-L 1083	Do.
Do		C-00-L 1084	Do.
Trims Creek		C-00-L 1085	Do.
Boulder Creek		C-00-L 1086	Do.
Lower Suzy-Q Creek		C-00-L 1087	Do
Darling Creek		C-00-L 1088	Do.
North Fork Bonanza		C-00-L 1090	Do.
Jim River		C-00-L 1091	Do.
Jim River		C-00-L 1092	Do.
South Fork Koyukuk		C-00-L 1093	Do.
Middle Fork Koyukuk		C-00-L 1094	Do.
Do		C-00-L 1095	Do.
Do		C-00-L 1096	Do.
Do		C-00-L 1097	Do.
Do		C-00-L 1098	Do.
Do		C-00-L 1099	Do.
Do		C-00-L 1100	Do.
Do		C-00-L 1101	Do.
Dietrich River		C-00-L 1102	Do.
Do		C-00-L 1103	Do.
Do		C-00-L 1104	Do.
Do		C-00-L 1105	Do.
Sagavanirktok River		C-00-L 1106	Do.
Do		C-00-L 1107	Do.
Do		C-00-L 1108	Do.
Do		C-00-L 1109	Do.
Do		C-00-L 1110	Do.
Do		C-00-L 1111	Do.
Do		C-00-L 1112	Do.
Do		C-00-L 1113	Do.
Do		C-00-L 1114	Do.
Do		C-00-L 1115	Do.
Do		C-00-L 1116	Do.
(h) Valdez terminal site: Valdez terminal site.	AA-5847	X-50-L-501	Dec. 10, 1973.

B. The provisions of subsection A above in this Exhibit are subject to the following:

(1) All alignments, boundaries, sites and proposed improvements that may be described or depicted in any application, map or drawing referred to above are subject to the written approval of the Secretary or Authorized Officer, in accordance with the provisions of this Agreement, and the inclusion of a particular type of Related Facility does not necessarily connote approval by the Secretary or the Authorized Officer of any concept, mode or design with respect to the facility.

(2) Any conflict, either expressed or implied, between any provision of this Exhibit (or of any application, map, drawing, or other document filed with or in support of the application, map or drawing), on the one hand, and, on the other hand, any provision found elsewhere in this Agreement, shall be resolved in favor of the provision found elsewhere in this Agreement.

EXHIBIT B—REQUIREMENTS OF THE DEPARTMENT OF DEFENSE RELATING TO MILITARY INSTALLATIONS

A. GENERAL REQUIREMENTS

1. Entry upon military land for construction and routine operations and maintenance shall be fully coordinated ten (10) days in advance of entry with the appropriate installation commander having immediate jurisdiction over the property. Entry under emergency conditions shall be coordinated expeditiously with the installation commander.

2. Entry for all activities conducted by Permittees upon all military installations shall be in strict compliance with post/base regulations, both existing or hereafter promulgated. Permittees shall obtain copies of such regulations from the affected installation commanders.

3. Ingress and egress to military installations shall be confined to routes designated by the installation commander. Such commander shall have the right to modify or change the designated routes without advance notice to Permittees. Use of existing military roads or other access routes across subject lands shall be non-exclusive.

4. Permittees shall reimburse the United States, through the Army or Air Force installation affected, for any increased maintenance costs of existing military roads resulting from or attributable to usage by Permittees. These costs shall be in addition to those contemplated by Section 12 of this Agreement.

5. Permittees may construct permanent access and maintenance roads within the Right-of-Way, provided such roads do not interfere with the surface use of the area by the military, except during the construction phase.

6. Roads designated by the installation commander to require intermittent military usage may be closed. The installation commander shall approve in advance all such closures. Any extended closure shall cause the road to be treated as stated in Section 3 of these General Requirements.

7. Any overhead construction relating to the Pipeline shall provide for a minimum of eighteen (18) feet of clearance above the existing road surface.

8. Crossover road ramp construction relative to ramp grades, pipeline cover, sleeves, bridging, signs and the like will conform to the extent practical to the standards of the Alaska State Highway Department.

9. Final route selection, as mapped, and any subsequent changes thereto across military lands will be approved by the affected installation commander prior to construction. The route of the Pipeline shall be located so as to avoid military improvements and the Pipeline shall be constructed a minimum distance of three hundred and twenty-five (325) feet from perimeter fences surrounding ammunition and fuel storage areas.

10. No surface projection of the Pipeline shall be permitted within the drop zone area west of the main development at Fort Greely.

11. Crossing of Army Petroleum Oil and Lubricant (POL) lines will be coordinated with the affected installation commander and the Petroleum Distribution Office (PDO), Support Command, U.S. Army, Alaska (USARAL), Fort Richardson, Alaska.

12. The Pipeline traversing subject lands shall be buried from stations 8400+00 and to 8511+51 and from Stations 8554+70 to 8562+46 as shown on Alyeska Pipeline Service Company Trans Alaska Pipeline System Drawing AL-00-G2, Sheet 45 of 138, Prudhoe Bay to Valdez. Burial depth and technique shall be sufficient to permit surface crossing of the Right-of-Way by heavy tracked and wheeled vehicles at designated locations of existing roads and runways. In the event that subsurface construction cannot be accomplished to the satisfaction of the installation commander, the Pipeline shall be relocated to an area or areas where burial is permissible, or where surface construction can be authorized without interruption of the military mission. Mode of construction between the aforementioned stations shall require the prior consent of the installation commander.

13. Disruption of, or interference with the operation and maintenance of any military pipelines, utility and communication lines is prohibited except by authorization by the installation commander. The Pipeline shall cross all existing intersecting pipelines, conduits, and cables with a minimum clearance of twelve (12) inches.

14. Maximum length of open trench or trenches during construction of the Pipeline over and across the subject land shall not exceed one (1) mile at any given time without the prior approval of the installation commander.

15. Suitable bridged crossings over open trenches shall be provided and maintained where necessary to permit passage of military personnel and vehicles; timely notice of requirements to be furnished by installation commander.

16. In connection with Permittees' duties to repair, replace, and rehabilitate as provided for in Section 13 of this Agreement, where borrowed soil material is necessary to perform such duties, the location and method of obtaining the borrowed material shall be approved by the installation commander. All surplus material not required for fill, backfill or grading shall be spread and leveled in an area designated by said commander.

17. Permittees shall submit legal descriptions of the centerline of the Right-of-Way and permanent access and maintenance roads as constructed in, upon, over and across military-controlled lands to the installation commander within ninety (90) days of the completion of construction within a given military installation. Separate legal descriptions shall be written for each noncontiguous tract of military-controlled land. Said legal descriptions shall be accompanied by preliminary "as built" drawings (and final "as built" drawings shall be furnished within three hundred and sixty (360) days) of said completion of the Pipeline and all permanent access and maintenance roads, together with separate real estate maps in the event sufficient survey information necessary to verify legal descriptions is not contained on the "as built" drawings.

18. Permittees shall install mainline valves sufficient to control Oil flow in the vicinity of populated areas, ammunition/explosive and fuel storage areas.

19. Electrically operated devices installed as part of the Pipeline System which are capable of producing radiations, electromagnetic or other interference shall be screened, filtered or otherwise suppressed to the extent that such devices will not adversely affect the function of existing communication systems. In the event that physical obstructions, such as towers or buildings are to be erected as part of the Pipeline System, their positioning shall be such that they will not obstruct radiation patterns of line-of-site communication, navigation aids or other communications, electronic or meteorological services.

20. Entry for construction and routine maintenance upon installations or crossings of utility facilities under the control of or utilized by Air Force Communications System/White Alice will be coordinated at least ten (10) days prior to entry with Alaska Communications Region through Headquarters, Alaskan Air Command, Elmendorf Air Force Base. Entry under emergency condi-

tions will be coordinated expeditiously with the Region.

21. Should the Pipeline cross high voltage power transmission lines on Eielson Air Force Base, adequate precaution to the satisfaction of the installation commander will be taken to insure that excessive sag or accidental power line breakage does not create a safety hazard.

22. In the event unexploded munitions are discovered by Permittees during construction activities, the construction activities shall immediately cease in that area. Permittees shall notify the installation commander who will immediately proceed to dispose of the munitions. Construction shall not proceed until authorized by the installation commander.

23. The United States reserves to itself the right to construct, use and maintain across, over and/or under the Right-of-Way, oil and sewer lines, and other facilities, in such manner as not to create an unreasonable interference with the use of the Right-of-Way.

24. Any authorized use or occupation of the subject military lands in connection with the construction, operation, maintenance or termination of the Pipeline System shall be subject to such rules and regulations as the installation commanders may from time to time prescribe. The military departments reserve the right to modify or change conditions to protect military interests as circumstances may from time to time warrant.

25. Transportation, storage and use of explosives during construction of the Pipeline System shall be permitted only in conformance with the applicable installation regulations. Permittees shall secure copies of these regulations from the installation commanders. Use of all explosives on military reservations shall be in strict conformance with U.S. Army Corps of Engineers Safety Manual, and Permittees shall secure copies of this manual from the installation commander. At least thirty (30) days in advance of any underwater blasting, Permittees shall submit to the installation commander a plan for such blasting. The plan shall set forth blasting locations, types and amounts of explosives, date or dates of blasting, and the reason for blasting.

26. The use of pesticides and herbicides shall be in accordance with applicable military regulations. An approved list of pesticides and herbicides, together with application constraints shall be obtained from the installation commander.

27. Permittees shall locate and/or install the Pipeline System in such manner so as to preclude the creation of ground fog and/or ice fog conditions which will in any way decrease the operational capability of the air fields located on Eielson Air Force Base, Fort Wainwright and Fort Greely. Studies or other data supporting the location or construction techniques utilized by Permittees to accomplish the requirements of this condition shall be submitted to the installation commander for review and approval thirty (30) days prior to commencement of construction on the lands herein described.

28. Prior to commencement of construction, Permittees shall submit a schedule of their construction activities on the military installation involved. This schedule shall be in such detail as may be required by the installation commander and during the course of construction this schedule shall be updated and resubmitted as may be required by the installation commander.

B. DEFINITIONS

As used above, the following terms have the meanings indicated:

1. "Installation Commander": The Commanding Officer of a military installation, e.g., Fort Wainwright, Fort Greely, Eielson Air Force Base.

2. "District Engineer": The District Engineer, U.S. Army Engineer District, Alaska, Anchorage, Alaska.

DEPARTMENT OF THE ARMY,
OFFICE OF THE CHIEF OF ENGINEERS,
Washington, D.C., November 23, 1973.

Mr. DAVID E. LINDGREN,
Deputy Solicitor,
Department of the Interior,
Washington, D.C.

DEAR MR. LINDGREN: By letter dated 14 November 1973 we furnished you certain provisions to be included in the right-of-way permit for the construction of the Trans-Alaska Pipeline. These provisions protect military interests where the pipeline right-of-way crosses or otherwise affects military installations.

In this letter we reserved the right to make reasonable modifications or changes from time to time. We are furnishing herewith a revision of Exhibit E which clarifies the intent of various paragraphs and eliminates certain paragraphs in which the provision is already adequately covered in the stipulations of the Final Environmental Impact Statement.

It is the intention of the Department of the Army and the Department of the Air Force to permit the construction, operation, maintenance, and termination of the Trans-Alaska Pipeline in a way that is compatible with both military operations and the Pipeline System, and that the necessary approvals requested by the Pipeline System will not be unreasonably withheld.

Sincerely,

WOODROW BERGE,
Director of Real Estate.

NOTE.—The "revision" referred to above in this letter was modified in certain respects before being incorporated into this Agreement and the Director of Real Estate, D.O.A., Office of Chief of Engineers, has been apprised of the modifications in all material respects.

DEPARTMENT OF THE ARMY,
OFFICE OF THE CHIEF OF ENGINEERS,
Washington, D.C. November 14, 1973.

Mr. DAVID E. LINDGREN,
Deputy Solicitor,
Department of the Interior,
Washington, D.C.

DEAR MR. LINDGREN: This refers to our DAEN–CWZ–W letter dated 9 November 1973 concerning review of your 20 July 1973 draft permit on the construction of the Trans-Alaska Pipeline. We indicated then that the permit should contain conditions to protect military interests where the pipeline right-of-way crosses or otherwise affects military installations.

We have prepared and are enclosing a set of such provisions to be incorporated in the draft permit as Exhibit E.

While these conditions are as accurate as we can foresee at this time, military exigencies and local circumstances may require that reasonable modifications or changes be made from time to time and the discretion to make such changes has been reserved in our proposed Exhibit E.

Sincerely,

WOODROW BERGE,
Director of Real Estate.

EXHIBIT C—REQUIREMENTS OF THE FEDERAL POWER COMMISSION RELATING TO POWER SITES

A. With respect to any Federal Lands that are classified, withdrawn or reserved for power purposes, the grant of the Right-of-Way is, in accordance with the findings of the Federal Power Commission (Docket No. DA–112–Alaska, U.S. Department of the Interior, issued on December 6, 1973), made subject to:

The retention of prior rights for reservoir or power development, and subject to the condition that in the event the said land is required for such purposes, any improvements or structures placed thereon which shall be found to interfere with such development shall be removed or relocated as may be necessary to eliminate interference with reservoir or power development at no cost to the United States, its permittees or licensees.

B. The Permittees herein shall not be deemed to be "permittees or licensees" within the meaning of the aforesaid findings of the Federal Power Commission.

EXHIBIT D—STIPULATIONS FOR THE AGREEMENT AND GRANT OF RIGHT-OF-WAY FOR THE TRANS-ALASKA PIPELINE

1. General

1.1. Definitions

1.1.1. As used in these Stipulations and elsewhere in this "Agreement and Grant of Right-of-Way for Trans-Alaska Pipeline", the following terms have the following meanings:

1.1.1.1. "Access Roads" means the roads constructed or used by Permittees within, or for ingress to and egress from, the Pipeline System. It does not include the proposed State highway from the Yukon River to Prudhoe Bay, Alaska, or any other State highway.

1.1.1.2. "Affiliate" means (a) a Subsidiary of a Parent, or (b) the Parent of the Subsidiary, or (c) in the case of a corporate Subsidiary, one or more corporations that share the Parent with the Subsidiary by reason of the fact that all of the outstanding capital stock of each of the corporations that share the Parent is owned directly or indirectly by the Parent, or (d) in the case of Sohio Pipe Line Company, any corporation of which all of the outstanding capital stock is owned directly or indirectly by The Standard Oil Company, an Ohio corporation, or The British Petroleum Company, Limited, a United Kingdom corporation, or both.

1.1.1.3. "Authorized Officer" means the employee of the Department, designated by the Secretary, to whom the Secretary delegates the authority to act on behalf of the Secretary pursuant to this Agreement or such other Person to whom the Authorized Officer redelegates his authority pursuant to the delegation of authority to the Authorized Officer from the Secretary.

1.1.1.4. "Business Entity" means an artificial legal entity, formed to conduct one or more ventures for profit, or not for profit, that is duly authorized and empowered to sue and be sued, and to hold the title to property, in its own name.

1.1.1.5. "Category 1(c) Lands" means lands selected by the State and not tentatively approved and not withdrawn under section 11(a)(2) of the Alaska Native Claims Settlement Act.

1.1.1.6. "Category 1(d) Lands" mean lands selected by the State and not tentatively approved and which were withdrawn under section 11(a)(2) of the Alaska Native Claims Settlement Act but which are not available for village or regional selection under section 22(1) of the Alaska Native Claims Settlement Act, 85 Stat. 713, 43 U.S.C. § 1621 (1970).

1.1.1.7. "Commissioning" means the acceptance and custody by Permittees of the first Oil tendered for shipment through the Pipeline after provision for line fill and tank bottoms. Permittees shall, by written notice, promptly advise the Authorized Officer of the date upon which such acceptance and custody takes place.

1.1.1.8. "Construction Mode" means the type of construction to be employed generally with regard to the Pipeline (e.g., whether the pipe will be buried or elevated).

1.1.1.9. "Construction Segment" means a portion of the Pipeline System that constitutes a complete physical entity or stage, in and of itself, which can be constructed, independently of any other portion or stage of the Pipeline System, in a designated area or between two given geographical points reasonably proximate to one another. It is not

to be construed as referring to the entirety of the Pipeline or of the Pipeline System.

1.1.1.10. "Construction Subdivision" means any one of approximately six (6) large, lineal sections of the route of the Pipeline as determined by the Authorized Officer after consulting with Permittees.

1.1.1.11. "Department" means the Department of the Interior of the United States, or any successor department or agency.

1.1.1.12. "Final Design" comprises completed design documents. It shall include contract plans and specifications; proposed Construction Modes; operational requirements necessary to justify designs; schedules; design analysis (including sample calculations for each particular design feature); all functional and engineering criteria; summaries of tests conducted and their results; and other considerations pertinent to design and project life expectancy.

1.1.1.13. "Involuntary Passage of Title" means a Transfer that is made by the exercise of a power of sale primarily for the benefit of creditors, or in accordance with the judgment, order or decree of a court in bankruptcy, eminent domain or other similar proceedings, or pursuant to any act or resolution of a sovereign legislative body directing a lawful taking of property.

1.1.1.14. "Mapping Segment" means a Construction Subdivision, or any part thereof, as determined by the Authorized Officer; *provided, however,* that with respect to a pump station, basic communication site, remote control valve site, mechanical refrigeration equipment site and any other like Related Facility, a Mapping Segment means the entire site.

1.1.1.15. "Notice to Proceed" means a permission to initiate Pipeline System construction that is issued in accordance with Stipulation 1.7.

1.1.1.16. "Oil" means unrefined liquid hydrocarbons, including gas liquids.

1.1.1.17. "Parent" means a Person or Business Entity whose direct or indirect legal or beneficial ownership interest in, or with respect to, a Tranferee or Permittee enables that Person or Business Entity to control the Transferee's or the Permittee's management or policies.

1.1.1.18. "Permittee" means any one of the Permittees.

1.1.1.19. "Permittees" means the Original Permittees, or their respective successors or assigns holding an undivided ownership interest in the Right-of-Way to the extent sanctioned by the Secretary in accordance with the provisions of this Agreement.

1.1.1.20. "Person" means a natural person.

1.1.1.21. "Persons" means more than one Person.

1.1.1.22. "Pipeline System" means all facilities located in Alaska used by Permittees in connection with the construction, operation, maintenance or termination of the Pipeline. This includes, but is not limited to, the Pipeline, storage tanks, Access Roads, communications sites, airfields, construction camps, material sites, bridges, construction equipment and facilities at the origin station and at the Valdez terminal. This does not include facilities used in connection with production of oil or gathering systems, nor does it include such things as urban administrative offices and similar facilities which are only indirectly involved.

1.1.1.23. "Preliminary Design" means the establishment of project criteria (i.e., construction, including design, and operational concepts) necessary to delineate the project to be constructed. As a minimum it includes the following: design criteria and project concepts; evaluation of field data used to establish the design criteria; drawings showing functional and technical requirements; reports of all test data compiled during the data collection and preliminary design evaluation; standard drawings (if applicable) or drawings to support structural design concepts of each typical facility or structure; proposed Construction Modes; outline project specifications; sample computations to support the design concepts and bases for project siting.

1.1.1.24. A. "Related Facilities" means those structures, devices, improvements, and sites, the substantially continuous use of which is necessary for the operation or maintenance of the Oil tranportation pipeline, including:

(1) line pipe and supporting structures;

(2) pump stations, including associated buildings, heliports, structures, yards and fences;

(3) valves and other control devices, and structures housing them;

(4) monitoring and communications devices, and structures housing them;

(5) surge and storage tanks, and related containment structures;

(6) bridges;

(7) terminals, including associated buildings, heliports, structures, yards, docks, and fences;

(8) a gas fuel line and electrical power lines necessary to serve the Pipeline;

(9) retaining walls, berms, dikes, ditches, cuts and fills, including hydraulic control structures;

(10) storage buildings and structures, and areas for storage of supplies and equipment;

(11) administrative buildings;

(12) cathodic protection devices;

(13) mechanical refrigeration equipment; and

(14) such other facilities as the Authorized Officer shall determine to be Related Facilities.

B. "Related Facilities" not authorized by this Agreement include roads and airports. Authorizations for such Related Facilities shall be given by other instruments.

C. "Related Facilities" does not mean those structures, devices, improvements, sites, facilities or areas, the use of which is temporary in nature such as those used only for construction purposes. Among such are: temporary camps; temporary landing strips; temporary bridges; temporary Access Roads; temporary communications sites; temporary storage sites; disposal sites; and construction use areas.

1.1.1.25. "Secretary" means the Secretary of the Interior of the United States, his delegate or lawful successor.

1.1.2.26. "Secretary of Labor" means the Secretary of Labor of the United States, his delegate or lawful successor.

1.1.1.27. "Subsidiary" means a Business Entity, that may or may not be a Permittee; the management and policies of which are controlled by a Parent directly or indirectly through one or more intermediaries.

1.1.1.28. "Transfer" means the passage of any right, title or interest in property (real, personal or mixed) by sale, grant, assignment, operation of law or otherwise, and whether voluntary or not.

1.1.1.29. "Transferee" means any Person, Business Entity or governmental or quasi-governmental body or authority in which there is, or there is proposed to be, vested any right, title, or interest of a Permittee in the Agreement of the Right-of-Way pursuant to a Transfer.

1.1.1.30. "Transferor" means any Permittee that makes, or that seeks to make, a Transfer of any right, title or interest in this Agreement or the Right-of-Way.

1.1.2. Terms defined elsewhere in this Agreement: [1]

1.2. Responsibilities

1.2.1. Except where the approval of the Authorized Officer is required before Permittees may commence a particular operation, neither the United States nor any of its agents or employees agrees, or is in any way obligated, to examine or review any plan, design, specification, or other document which may be filed with the Authorized Officer by Permittees pursuant to these Stipulations.

1.2.2. The absence of any comment by the Authorized Officer or any other agent or employee or contractor of the United States with respect to any plan, design, specification, or other document which may be filed by Permittees with the Authorized Officer shall not be deemed to represent in any way whatever any assent to, approval of, or concurrence in such plan, design, specification, or other document or of any action proposed therein.

1.2.3. With regard to the construction, operation, maintenance and termination of the Pipeline System: (1) Permittees shall ensure full compliance with the provisions of this Agreement, including these Stipulations, by their agents, employees and contractors (including subcontractors of any tier), and the employees of each of them. (2) Unless clearly inapplicable, the requirements and prohibitions imposed upon Permittees by these Stipulations are also imposed upon each Permittee's agents, employees, contractors, and subcontractors, and the employees of each of them. (3) Failure or refusal of a Permittee's agents, employees, contractors, subcontractors, or their employees to comply with these Stipulations shall be deemed to be the failure or refusal of the Permittee. (4) Each Permittee shall require its agents, contractors and subcontractors to include these Stipulations in all contracts and subcontracts which are entered into by any of them, together with a provision that the other contracting party, together with its agents, employees, contractors and subcontractors, and the employees of each of them, shall likewise be bound to comply with these Stipulations.

1.2.4. Permittees shall make separate application, under applicable statutes and regulations, for authorization to use or occupy Federal Lands in connection with the Pipeline System where the lands are not within the Right-of-Way granted by this Agreement.

1.3. Authorized Officer

1.3.1. For purposes of information and review, the Authorized Officer may call upon Permittees at any time to furnish any or all data relating to construction, operation, maintenance and termination activities undertaken in connection with the Pipeline System.

1.3.2. The Authorized Officer may require Permittees to make such modification of the Pipeline System, without liability or expense to the United States, as he deems necessary to: protect or maintain stability of geologic materials; protect or maintain integrity of the Pipeline System; prevent serious and irreparable harm to the environment (including but not limited to fish or wildlife populations, or their habitats); or remove hazards to public health and safety.

[1] Page numbers refer to original document.

1.4. Common Agent of Permittees

1.4.1. Permittees, and each of them, have appointed Alyeska Pipeline Service Company as their common agent to design and construct the Pipeline System under and pursuant to an agreement entitled "Agreement for the Design and Construction of the Trans Alaska Pipeline System," dated August 27, 1970, and intend to appoint Alyeska Pipeline Service Company as their common agent to operate, maintain and terminate the Pipeline System under and generally pursuant to an Operating Agreement referred to in Section 5.1 of the "Trans Alaska Pipeline System Agreement," dated August 27, 1970. A Power of Attorney has been filed with the Department of the Interior by each Permittee appointing Alyeska Pipeline Service Company the true and lawful agent and attorney-in-fact on behalf of each Permittee with full power and authority to execute and deliver any and all instruments in connection with the design, construction, or operation of the Pipeline System. Within the scope of such contractual authority, such agent shall represent Permittees, and each of them, with respect to this Agreement. Such agent is and shall be empowered on behalf of Permittees, and each of them, to accept service of any process, pleadings or other documents in connection with any court or administrative proceeding relating in whole or in part to this Agreement or to all or any part of the Pipeline System and to which the United States shall be a party.

1.4.2. Permittees shall maintain a common agent for the construction, operation, maintenance and termination of the Pipeline System at all times during this Agreement. Such agent shall be a citizen of the United States, or if a corporation, a domestic corporation. Such agent shall be a resident of Alaska, or if a corporation, shall be duly authorized to conduct business in Alaska. Permittees shall cause such agent to maintain in the City of Anchorage, Alaska, at all times during this Agreement an office for the delivery of all documents, orders, notices and other written communications, as provided for in Stipulations 1.4.1. and 1.6.

1.4.3. In the event Permittees substitute a new common agent at any time, Permittees shall give prompt written notice to the Authorized Officer of such substitution, the name and office address in Anchorage, Alaska, of the new agent, and a copy of Permittees' agreement with the new agent. The United States shall be entitled to rely on each appointment until such time as a notice of the substitution of a new common agent takes effect. Each such notice shall not take effect until two (2) full working days after (and not including) the date that it was received by the Authorized Officer.

1.4.4. Upon the Transfer by any Permittee of any right, title or interest of Permittee in the Right-of-Way or this Agreement, the Transferee shall promptly execute and deliver to the Authorized Officer such documents as may be required to evidence the Transferee's appointment and ratification of the then-acting common agent.

1.5. Authority of Representatives of Authorized Officer and Common Agent; Orders of Authorized Officer.

1.5.1. No order or notice given to Permittees on behalf of the Secretary by the Authorized Officer or any other Person shall be effective as to Permittees unless prior written notice of the delegation of authority to issue such order or notice has been given to Permittees in the manner provided in Stipulation 1.6.

1.5.2. Permittees shall comply with each and every lawful order directed to them and that is issued by the Secretary, the Authorized Officer or by any duly authorized representative of the Authorized Officer.

1.5.3. Permittees shall cause the common agent of Permittees to maintain a sufficient number of its duly authorized representatives to allow for the prompt delivery to Permittees, or any of them, of all notices, orders and other communications, written or oral, of the Secretary or Authorized Officer. Each of the said representatives shall be registered with the Authorized Officer, and shall be appropriately identified in such manner and on such terms as the Authorized Officer shall prescribe. Permittees shall cause the common agent of Permittees to consult with the Authorized Officer at any time regarding the number and location of such representatives of the common agent.

1.6. Orders and Notices

1.6.1. All decisions, determinations, authorizations, approvals, consents, demands or directions that shall be made or given by the Secretary or the Authorized Officer to any one or more of Permittees in connection with the enforcement or administration of this Agreement, any applicable law or regulation, or any other agreement, permit or authorization relating in whole or in part to all or any part of the Pipeline System shall, except as otherwise provided in Stipulation 1.6.2. of this Stipulation, be in the form of a written order or notice.

1.6.2. If, in the judgment of the Secretary or the Authorized Officer, there is an emergency that necessitates the immediate issuance to any one or more of Permittees of an order or notice, such order or notice may be given orally, *provided, however* that subsequent confirmation of the order or notice shall be given in writing as rapidly as is practicable under the circumstances.

1.6.3. All written orders, notices or other written communications, including telegrams, relating to any subject (and regardless of whether they do or do not relate to the design or construction of the Pipeline System) that are addressed to any one or more of Permittees shall be deemed to have been delivered to and received by the addressee or addressees when the order, notice or other communication has been delivered: (1) either by messenger during normal business hours or by means of registered or certified United States mail, postage prepaid, return receipt requested, to the office of the common agent of Permittees at 1815 South Bragaw Street, Anchorage, Alaska 99504, or (2) personally to any authorized representative of the common agent.

1.6.4. All written notices and communications, including telegrams, of any one or more of Permittees that are addressed to the Secretary shall be deemed to have been delivered to and received by the Secretary when the notice of communication has been delivered, either by messenger during normal business hours or by means of registered or certified United States mail, postage prepaid, return receipt requested, to the Secretary personally or to Office Room No. 6151 in the Department of the Interior Building, 18th & C Streets, Northwest, Washington, D.C. 20240.

1.6.5. All written notices and communications of any one or more of Permittees that are addressed to the Authorized Officer shall be deemed to have been delivered and received by the addressee when the notice or communication has been delivered, either by messenger during normal business hours or by means of registered or certified United States mail, postage prepaid, return receipt requested, to the Authorized Officer personally or to Office Room No. 405, 555 Cordova Street, Anchorage, Alaska 99504.

1.6.6. The United States or Permittees, by written notice to the other, may change the office address to which written notices, orders, or other written communications may be addressed and delivered thereafter, subject, however, to the provisions of Stipulation 1.4.

1.6.7. The regulations of the Department relating to notices or other communications by mail (43 CFR 1810.2) shall not be applicable to this Agreement.

1.7. Notices To Proceed

1.7.1. Permission to construct.

1.7.1.1. Permittees shall not initiate any construction of the Pipeline System without prior written permission of the Authorized Officer. Such permission shall be given solely by means of a written Notice to Proceed isued by the Authorized Officer. Each Notice to Proceed shall authorize construction only as therein expressly stated and only for the particular Construction Segment therein described.

1.7.1.2. The Authorized Officer shall issue a Notice to Proceed only when in his judgment the construction (including design) and operation proposals are in conformity with the provisions of these Stipulations.

1.7.1.3. By written notice, the Authorized Officer may revoke in whole or in part any Notice to Proceed which has been issued when in his judgment unforeseen conditions later arising require alterations in the Notice to Proceed in order to: protect or maintain stability of geologic materials; protect or maintain integrity of the Pipeline System; prevent serious and irreparable harm to the environment (including but not limited to fish or wildlife populations, or their habitats); or remove hazards to public health and safety.

1.7.1.4. Prior to submission of any Preliminary Designs or applications for any Notice to Proceed, Permittees and the Authorized Officer shall agree to a schedule for the time, scope and quantity of such submissions and applications. The purpose of such schedule is to assure that Permittees' submissions and applications shall be reasonable in scope, and filed in a reasonable time frame, insofar as the workload thereby imposed on the Authorized Officer is concerned. Submittals and applications shall be filed in accordance with said schedule, and the Authorized Officer may refuse to consider any that are not so filed. The schedule may be reviewed and revised from time to time as may be agreed upon by Permittees and the Authorized Officer.

1.7.2. Preliminary Design Submissions

1.7.2.1. Prior to applying for a Notice to Proceed for any Construction Segment, Permittees shall submit the Preliminary Design for that Segment to the Authorized Officer for approval. Where appropriate, each submission shall include the criteria which justify the selection of the Construction Modes. The Authorized Officer shall expeditiously review each submission and shall do so within thirty (30) days from the date of his receipt of the submission. The Authorized Officer may request additional information if he deems it necessary.

1.7.2.2. In appropriate cases, the Authorized Officer may waive the requirement that a Preliminary Design be submitted. In this circumstance, Permittees may proceed to apply for a Notice to Proceed in accordance with Stipulation 1.7.4.

1.7.3. Summary Network Analysis Diagram

1.7.3.1. Prior to Final Design submissions, Permittees shall submit a summary network analysis diagram for the entire project to the Authorized Officer. The summary network analysis diagram shall be time-scaled and shall include all activities and contingencies which may reasonably be anticipated in connection with the project. The summary network analysis diagram shall include:

(1) Data collection activities;

(2) Submittal and approval activities;

(3) Pre-construction, construction and post-construction activities; and

(4) Other pertinent data.

1.7.3.2. The summary network analysis diagram shall be updated at thirty (30) day intervals, as significant changes occur, or as otherwise approved in writing by the Authorized Officer.

1.7.4. Application for Notice to Proceed.

1.7.4.1. Permittees may apply for a Notice to Proceed for only those Construction Segments for which the Preliminary Design has been approved in writing by the Authorized Officer or a waiver pursuant to Stipulation 1.7.2.2 has been issued in writing by the Authorized Officer.

1.7.4.2 Before applying for a Notice to Proceed for a Construction Segment, Permittees shall, in such manner as shall be acceptable to the Authorized Officer, by survey, locate and clearly mark on the ground the proposed centerline of the line pipe to be located in the Mapping Segment within which the Construction Segment is to be constructed and the location of all Related Facilities proposed to be constructed in the Mapping Segment.

1.7.4.3. Each application for a Notice to Proceed shall be suported by:

(1) A Final Design.

(2) All reports and results of environmental studies conducted or considered by Permittees.

(3) All data necessary to demonstrate compliance with the terms and conditions of these Stipulations with respect to that particular Construction Segment.

(4) A detailed network analysis diagram for the Construction Segment, including: Permittees' work schedules; consents, permits or authorizations required by State and Federal agencies and their interrelationships; design and review periods; data collection activities; and construction sequencing. The detailed network analysis diagram shall be updated as required to reflect current status of the project.

(5) A map or maps, prepared in such manner as shall be acceptable to the Authorized Officer, depicting the proposed location in the Mapping Segment within which the Construction Segment is to be constructed of: (1) the boundaries of all contiguous temporary use areas, and (2) all improvements, buried or above-ground, that are to be constructed within the Mapping Segment. The Authorized Officer shall not issue a Notice to Proceed with construction until he has approved all relevant locations on the ground and temporary boundary markers have been set by Permittees to the satisfaction of the Authorized Officer.

(6) Such other data as may be requested by the Authorized Officer either before submission of the application for a Notice to Proceed or at any time during the review period.

1.7.4.4. During review of an application for a Notice to Proceed, the relevant portion of the route of the Pipeline may be modified by the Authorized Officer, if, in his judgment, environmental conditions or new technological developments warrant the modifications. If, during construction, adverse physical conditions are encountered that were not known to exist, or that were known to exist but their significance was not fully appreciated when the Authorized Officer issued a Notice to Proceed for the portion of the Mapping Segment in which the physical conditions are encountered, the Authorized Officer may authorize deviations from the initially approved location of the Pipeline to another location along the same general route of the Pipeline at the point or points where the physical conditions are encountered, including adequate room for structurally sound transition. A deviation shall not be constructed without the prior written approval of the Authorized Officer and, if so approved, shall conform in all respects to the provisions of the approval.

1.7.4.5. The Authorized Officer shall review each application for a Notice to Proceed and all data submitted in connection therewith within ninety (90) days. Said ninety (90) day period shall begin from the later of the following dates:

(1) Date of receipt by the Authorized Officer of an application for a Notice to Proceed.

(2) Date of receipt by the Authorized Officer of the last submittal of additional data pursuant to this Stipulation.

1.7.4.6. If the Authorized Officer requires Permittees to submit additional data on one or more occasions, the review period shall begin from the date of receipt by the Authorized Officer of the last submittal.

1.8. Changes in Conditions

1.8.1. Unforeseen conditions arising during construction, operation, maintenance or termination of the Pipeline System may make it necessary to revise or amend these Stipulations to control or prevent damage to the environment or hazards to public health and safety. In that event, Permittees and the Authorized Officer shall agree as to what revisions or amendments shall be made. If they are unable to agree, the Secretary shall have final authority to determine the matter.

1.9. Antiquities and Historical Sites

1.9.1. Permittees shall engage an archeologist approved by the Authorized Officer to provide surveillance and inspection of the Pipeline System for archeological values.

1.9.2. If, in connection with any operation under this Agreement, or any other Agreement issued in connection with the Pipeline System, Permittees encounter known or previously unknown paleontological, archeological, or historical sites, Permittees shall immediately notify the Authorized Officer and said archeologist. Permittees' archeologist shall investigate and provide an on-the-ground opinion regarding the protection measures to be undertaken by Permittees. The Authorized Officer may suspend that portion of Permittees' operations necessary to preserve evidence pending investigation of the site.

1.9.3. Six copies of all survey and excavation reports shall be filed with the Authorized Officer.

1.10. Completion of Use

1.10.1. Upon completion of the use of all, or a very substantial part, of the Right-of-Way or other portion of the Pipeline System, Permittees shall promptly remove all improvements and equipment, except as otherwise approved in writing by the Authorized Officer, and shall restore the land to a condition that is satisfactory to the Authorized Officer or at the option of Permittees pay the cost of such removal and restoration. The satisfaction of the Authorized Officer shall be stated in writing. Where approved in writing by the Authorized Officer, buried pipe may be left in place, provided all oil and residue are removed from the pipe and the ends are suitably capped.

1.10.2. All areas that do not constitute all, or a very substantial part of the Right-of-Way or other portion of the Pipeline System, utilized pursuant to authorizations issued in connection with the Pipeline System, shall be Put-to-Bed by Permittees upon completion of their use unless otherwise directed by the Authorized Officer. Put-to-Bed is used herein to mean that Access Roads, material sites and other areas shall be left in such stabilized condition that erosion will be minimized through the use of adequately designed and constructed waterbars, revegetation and chemical surface control; that culverts and bridges shall be removed by Permittees in a manner satisfactory to the Authorized Officer, and that such roads, sites and areas shall be closed to use. Permittees' rehabilitation plans shall be approved in writing by the Authorized Officer prior to termination of use of any such road, or any part thereof, in accordance with Stipulation 2.12.

1.11. Public Improvements

1.11.1. Permittees shall protect existing telephone, telegraph and transmission lines, roads, trails, fences, ditches and like improvements during construction, operation, maintenance and termination of the Pipeline System. Permittees shall not obstruct any road or trail with logs, slash, or debris. Damage caused by Permittees to public utilities and improvements shall be promptly repaired by Permittees to a condition which is satisfactory to the Authorized Officer.

1.12. Regulation of Public Access

1.12.1. During construction or termination activities, Permittees may regulate or prohibit public access to or upon any Access Road being used for such activity. At all other times, Permittees shall permit free and unrestricted public access to and upon Access Roads, except that with the written consent of the Authorized Officer, Permittees may regulate or prohibit public access and vehicular traffic on Access Roads as required to facilitate operations or to protect the public, wildlife and livestock from hazards associated with operation and maintenance of the Pipeline System. Permittees shall provide appropriate warnings, flagmen, barricades, and other safety measures when Permittees are using Access Roads, or regulating or prohibiting public access to or upon Access Roads.

1.12.2. During construction of the Pipeline System, Permittees shall provide alternative routes for existing roads and trails as determined by the Authorized Officer whether or not these roads or trails are recorded.

1.12.3. Permittees shall make provisions for suitable permanent crossings for the public where the Right-of-Way or Access Roads cross existing roads, foot-trails, winter trails, or other rights-of-way.

1.12.4. After completion of construction of the Pipeline System, and with the concurrence of Permittee, the Authorized Officer may designate areas of the Right-of-Way to which the public shall have free and unrestricted access.

1.13. Electronically Operated Devices

1.13.1. Permittee shall screen, filter, or otherwise suppress any electronically operated devices that are installed as part of the Pipeline System which are capable of producing electromagnetic interference radiations so that such devices will not adversely affect the functioning of existing communications systems or navigational aids. In the event that structures such as towers or buildings are to be erected as a part of the Pipeline System, their positioning shall be such that they will not obstruct radiation patterns of line-of-sight communications systems, navigational aids, or similar systems.

1.14. Camping, Hunting, Fishing and Trapping

1.14.1. Permittees shall post the Right-of-Way against camping, hunting, fishing, trapping and shooting with the Right-of-Way. Permittees shall prohibit their employees, agents, contractors, subcontractors, and their employees, from engaging in such activities.

1.14.2. Permittees shall inform their employees, agents, contractors, subcontractors, and their employees, of applicable laws and regulations relating to hunting, fishing, and trapping.

1.15. Small Craft Passage

1.15.1. The creation of any permanent obstruction to the passage of small craft in streams is prohibited.

1.16. Protection of Survey Monuments

1.16.1 Permittees shall mark and protect all geodetic survey monuments encountered during the construction, operation, maintenance and termination of the Pipeline System. These monuments are not to be disturbed; however, if such a disturbance occurs, the Authorized Officer shall be immediately notified thereof in writing.

1.16.2. If any land survey monuments, corners, or accessories (excluding geodetic survey monuments) are destroyed, obliterated or damaged, Permittees shall employ a qualified land surveyor to reestablish or restore same in accordance with the "Manual of Instruction for the Survey of Public Lands" and shall record such survey in the appropriate records. Additional requirements for the protection of monuments, corners, and bearing trees may be prescribed by the Authorized Officer.

1.17. Fire Prevention and Suppression

1.17.1. Permittees shall promptly notify the Authorized Officer and take all measures necessary or appropriate for the prevention and suppression of fires in accordance with 43 CFR 2801.1-5(d). Permittees shall comply with the instructions and directions of the Authorized Officer concerning the use, prevention and suppression of fires. Use of open fires in connection with construction of the Pipeline System is prohibited unless authorized in writing by the Authorized Officer.

1.18. Surveillance and Maintenance

1.18.1. During the construction, operation, maintenance and termination of the Pipeline System, Permittees shall conduct a surveillance and maintenance program applicable to the subarctic and arctic environment. This program shall be designed to: (1) provide for public health and safety; (2) prevent damage to natural resources; (3) prevent erosion; and (4) maintain Pipeline System integrity.

1.18.2. Permittees shall have a communication system that ensures the transmission of information required for the safe operation of the Pipeline System.

1.18.3. Permittees shall maintain complete and up-to-date records on construction, operation, maintenance and termination activities performed in connection with the Pipeline System. Such records shall include surveillance data, leak and break records, necessary operational data, modification records and such other data as the Authorized Officer may require.

1.18.4. Permittees shall provide and maintain Access Roads and airstrips, the number and location of which shall be approved by the Authorized Officer, to ensure that Permittees' maintenance crews and Federal and State representatives shall have continuing access to the Pipeline System.

1.19. Housing and Quarters

1.19.1. Permittees shall furnish, on a reimbursable basis, such representatives of the United States as may be designated by the Authorized Officer with adequate meals, living quarters and office space, reasonable use of Permittees' communications systems, and reasonable surface and air transportation during the construction, operation, maintenance and termination of the Pipeline System. Whenever possible, Permittees shall be notified in writing by the Authorized Officer in advance regarding the number of persons for whom such services and facilities will be required.

1.20. Health and Safety

1.20.1. Permittees shall take all measures necessary to protect the health and safety of all persons affected by their activities performed in connection with the construction, operation, maintenance or termination of the Pipeline System, and shall immediately abate any health or safety hazards. Permittees shall immediately notify the Authorized Officer of all serious accidents which occur in connection with such activities.

1.21. Conduct of Operations

1.21.1. Permittees shall perform all Pipeline System operations in a safe and workmanlike manner so as to ensure the safety and integrity of the Pipeline System, and shall at all times employ and maintain personnel and equipment sufficient for that purpose. Permittees shall immediately notify the Authorized Officer of any condition, problem, malfunction, or other occurrence which in any way threatens the integrity of the Pipeline System.

1.22. Applicability of Stipulations

1.22.1. Nothing in these Stipulations shall be construed as applying to activities of Permittees that have no relation to the Pipeline System.

1.22.2. Nothing in these Stipulations shall be construed to affect any right or cause of action that otherwise would be available to Permittees against any person other than the United States.

2. Environmental

2.1. Environmen'al Briefing

2.1.1. Prior to, and during, construction of the Pipeline System, Permittees shall provide for environmental and other pertinent briefings for construction and other personnel by such Federal employees as may be designated by the Authorized Officer. Permittees shall arrange the time, place and attendance for such briefings upon request by the Authorized Officer. Permittees shall bear all costs of such briefings other than salary, per diem, subsistence, and travel costs of Federal employees. In addition, Permittees shall separately arrange with the State of Alaska for such similar briefings as the State may desire.

2.2. Pollution Control

2.2.1. General

2.2.1.1. Permittees shall conduct all activities associated with the Pipeline System in a manner that will avoid or minimize degradation of air, land and water quality. In the construction, operation, maintenance and termination of the Pipeline System, Permittees shall perform their activities in accordance with applicable air and water quality standards, related facility siting standards, and related plans of implementation, including but not limited to standards adopted pursuant to the Clean Air Act, as amended, 42 U.S.C. § 1857 *et seq.*, and the Federal Water Pollution Control Act, as amended, 33 U.S.C. § 1321 *et seq.*

2.2.2. Water and Land Pollution

2.2.2.1. Permittees shall comply with applicable "Water Quality Standards" of the State of Alaska as approved by the Environmental Protection Agency.

2.2.2.2. Mobile ground equipment shall not be operated in lakes, streams or rivers unless such operation is approved in writing by the Authorized Officer.

2.2.3. Thermal Pollution

2.2.3.1. Permittees shall comply with the standards set for thermal pollution in the State of Alaska "Water Quality Standards," as approved by the Environmental Protection Agency.

2.2.4. Air Pollution and Ice Fog

2.2.4.1. Permittees shall utilize and operate all facilities and devices used in connection with the Pipeline System so as to avoid or minimize air pollution and ice fog. Facilities and devices which cannot be prevented from producing ice fog shall be located so as not to interfere with airfields, communities or roads.

2.2.4.2. Emissions from equipment, installations and burning materials shall meet applicable Federal and State air quality standards.

2.2.5. Pesticides, Herbicides and other Chemicals

2.2.5.1. Permittees shall use only non-persistent and immobile types of pesticides, herbicides and other chemicals. Each chemical to be used and its application constraint shall be approved in writing by the Authorized Officer prior to use.

2.2.6. Sanitation and Waste Disposal

2.2.6.1. "Waste" means all discarded matter, including but not limited to human waste, trash, garbage, refuse, oil drums, petroleum products, ashes and equipment.

2.2.6.2. All waste generated in construction, operation, maintenance and termination of the Pipeline System shall be removed or otherwise disposed of in a manner acceptable to the Authorized Officer. All applicable standards and guidelines of the Alaska State Department of Environmental Conservation, the United States Public Health Service, the Environmental Protection Agency, and other Federal and State agencies shall be adhered to by Permittees. All incinerators shall meet the requirements of applicable Federal and State laws and regulations and shall be used with maximum precautions to prevent forest and tundra fires. After incineration, material not consumed in the incinerator shall be disposed of in a manner approved in writing by the Authorized Officer. Portable or permanent waste disposal systems to be used shall be approved in writing by the Authorized Officer.

2.3 Buffer Strips

2.3.1. Public Interest Areas

2.3.1.1. No construction activity in connection with the Pipeline System shall be conducted within one-half (½) mile of any officially designated Federal, State or municipal park, wildlife refuge, research natural area, recreation area, recreation site, or any registered National Historic Site or National Landmark, unless such activity is approved in writing by the Authorized Officer.

2.3.2. Vegetative Screen

2.3.2.1 Permittees shall not cut or remove any vegetative cover within a minimum five hundred (500) foot strip between State highways and material sites unless such cutting or removal is approved in writing by the Authorized Officer.

2.3.2.2. Where the Right-of-Way crosses State highways, a screen of vegetation native to the specific setting shall be established over disturbed areas unless otherwise approved in writing by the Authorized Officer.

2.3.3. Streams

2.3.3.1. The Pipeline System shall be located so as to provide three hundred (300) foot minimum buffer strips of undisturbed land along streams unless otherwise approved in writing by the Authorized Officer.

2.4. Erosion Control

2.4.1. General

2.4.1.1. Permittees shall perform all Pipeline System construction, operation, maintenance and termination activities so as to avoid or minimize disturbance to vegetation.

2.4.1.2. The design of the Pipeline System shall provide for the construction of control facilities that will avoid or minimize erosion.

2.4.1.3. The erosion control facilities shall be constructed to avoid induced and accelerated erosion and to lessen the possibility of forming new drainage channels resulting from Pipeline System activities. The facilities shall be designed and operations conducted in such a way as to avoid or minimize disturbance to the thermal regime.

2.4.2. Stabilization

2.4.2.1. Surface materials taken from disturbed areas shall be stockpiled and utilized during restoration unless otherwise approved in writing by the Authorized Officer. Stabilization practices, as determined by the needs for specific sites, shall include but shall not be limited to seeding, planting, mulching, and the placement of mat binders, soil binders, rock or gravel blankets, or structures.

2.4.2.2. All disturbed areas shall be left in a stabilized condition satisfactory to the Authorized Officer. Such satisfaction shall be stated in writing by the Authorized Officer.

2.4.3. Crossing of Streams, Rivers or Flood Plains

2.4.3.1. Permittees shall prevent or minimize erosion at stream and river crossings and those parts of the Pipeline System within flood plains, as defined in Stipulation 3.6.

2.4.3.2. Temporary access over stream banks shall be made through use of fill ramps rather than by cutting through stream banks unless otherwise approved in writing by the Authorized Officer. Permittees shall remove such ramps upon termination of seasonal or final use. Ramp materials shall be disposed of in a manner approved in writing by the Authorized Officer.

2.4.4. Seeding and Planting.

2.4.4.1. Seeding and planting of disturbed areas shall be conducted as soon as practicable and, if necessary, shall be repeated until vegetation is successful, unless otherwise approved in writing by the Authorized Officer. All other retoration shall be completed as soon as possible.

2.4.5. Excavated Material

2.4.5.1. Excavated material in excess of that required to backfill around any structure, including the pipe, shall be disposed of in a

manner approved in writing by the Authorized Officer.

2.5. Fish and Wildlife Protection.

2.5.1. Passage of Fish

2.5.1.1. Permittees shall provide for uninterrupted movement and safe passage of fish. Any artificial structure or any stream channel change that would cause a blockage to fish shall be provided with a fish passage structure or facility that meets all Federal and State requirements. The proposed design shall be submitted to the Authorized Officer in accordance with Stipulation 1.7.

2.5.1.2. Pump intakes shall be screened to prevent harm to fish.

2.5.1.3. Abandoned water diversion structures shall be plugged and stabilized to prevent trapping or stranding of fish.

2.5.1.4. If material sites are approved adjacent to or in certain lakes, rivers, or streams, the Authorized Officer may require Permittees to construct levees, berms, or other suitable means to protect fish and fish passage and to prevent siltation of streams or lakes.

2.5.2. Fish Spawning Beds

2.5.2.1. "Fish Spawning Beds" means the areas where anadromous and resident fish deposit their eggs.

2.5.2.2. Permittees shall avoid channel changes in Fish Spawning Beds designated by the Authorized Officer; however, where channel changes cannot be avoided in such beds, new channels shall be constructed according to written standards supplied by the Authorized Officer.

2.5.2.3. Fish Spawning Beds shall be protected from sediment where soil material is expected to be suspended in water as a result of construction activities. Settling basins shall be constructed to intercept silt before it reaches streams or lakes.

2.5.2.4. Permittees shall comply with any special requirements made by the Authorized Officer for a stream system in order to protect Fish Spawning Beds. Permittees shall repair all damage to Fish Spawning Beds caused by construction, operation, maintenance or termination of the Pipeline System.

2.5.3. Zones of Restricted Activities

2.5.3.1. Permittees' activities in connection with the Pipeline System in key fish and wildlife areas may be restricted by the Authorized Officer during periods of fish and wildlife breeding, nesting, spawning, lambing or calving activity and during major migrations of fish and wildlife. The Authorized Officer shall give Permittees written notice of such restrictive action. From time to time, the Authorized Officer shall furnish Permittees a list of areas where such actions may be required, together with anticipated dates of restriction.

2.5.4. Big Game Movements

2.5.4.1. Permittees shall construct and maintain the Pipeline, both buried and above ground sections, so as to assure free passage and movement of big game animals.

2.6 Materials Sites

2.6.1 Purchase of Materials

2.6.1.1. If permittees require materials from the public lands, Permittees shall make application to purchase such materials in accordance with 43 CFR, Part 3610. Permittees shall submit a mining plan in accordance with 43 CFR, Part 23. No materials may be removed by Permittees without written approval of the Authorized Officer.

2.6.1.3. Insofar as possible, use of existing materials sites will be authorized in preference to new sites.

2.6.1.3. Gravel and other construction materials shall not be taken from stream beds, river beds, lake shores or other outlets of lakes, unless the taking is approved in writing by the Authorized Officer.

2.6.2. Layout of Materials Sites

2.6.2.1. Materials site boundaries shall be shaped in such a manner as to blend with surrounding natural land patterns. Regardless of the layout of materials sites, primary emphasis shall be placed on prevention of soil erosion and damage to vegetation.

2.7. Clearing

2.7.1. Boundaries

2.7.1.1. Permittees shall identify approved clearing boundaries on the ground for each Construction Segment prior to beginning clearing operations. All timber and other vegetative material outside clearing boundaries and all blazed, painted or posted trees which are on or mark clearing boundaries are reserved from cutting and removal with the exception of danger trees or snags designated as such by the Authorized Officer.

2.7.2. Timber

2.7.2.1. Prior to initiating clearing operations, Permittees shall notify the Authorized Officer of the amount of merchantable timber, if any, which will be cut, removed or destroyed in the construction and maintenance of the Pipeline System, and shall pay the United States in advance of such construction or maintenance activity, such sum of money as the Authorized Officer determines to be the full stumpage value of the timber to be cut, removed or destroyed,

2.7.2.2. All trees, snags, and other woody material cut in connection with clearing operations shall be cut so that the resulting stumps shall not be higher than six (6) inches measured from the ground on the uphill side.

2.7.2.3. All trees, snags and other woody material cut in connection with clearing operations shall be felled into the area within the clearing boundaries and away from water courses.

2.7.2.4. Hand clearing shall be used in areas where the Authorized Officer determines that use of heavy equipment would be detrimental to existing conditions.

2.7.2.5. All debris resulting from clearing operations and construction that may block stream flow, delay fish passage, contribute to flood damage, or result in stream bed scour or erosion shall be removed.

2.7.2.6. Logs shall not be skidded or yarded across any stream without the written approval of the Authorized Officer.

2.7.2.7. No log landing shall be located within three-hundred (300) feet of any water course.

2.7.2.8. All slash shall be disposed of in construction pads or Access Roads unless otherwise directed in writing by the Authorized Officer.

2.8. Disturbance of Natural Water

2.8.1. All activities of Permittees in connection with the Pipeline System that may create new lakes, drain existing lakes, significantly divert natural drainages, permanently alter stream hydraulics, or disturb significant areas of stream beds are phohibited unless such activities along with necessary mitigation measures are approved in writing by the Authorized Officer.

2.9 Off Right-of-Way Traffic

2.9.1. Permittees shall not operate mobile ground equipment off the Right-of-Way, Access Roads, State highways, or authorized areas, unless approved in writing by the Authorized Officer or when necessary to prevent harm to any Person.

2.10. Aesthetics

2.10.1. Permittees shall consider aesthetic values in planning, construction and operation of the Pipeline System. Where the Right-of-Way crosses a State highway in forested terrain, the straight length of the Pipeline Right-of-Way visible from the highway shall not exceed six hundred (600) feet in length, unless otherwise approved in writing by the Authorized Officer. The Authorized Officer may impose such other requirements as he deems necessary to protect aesthetic values.

2.11. Use of Explosives

2.11.1. Permittees shall submit a plan for use of explosives, including but not limited to blasting techniques, to the Authorized Officer in accordance with Stipulation 1.7.

2.11.2. No blasting shall be done under water or within one quarter (¼) mile of streams or lakes without a permit from the Alaska Department of Fish and Game, when such a permit is required by State law or regulation.

2.12. Restoration

2.12.1. Areas disturbed by Permittees shall be restored by Permittees to the satisfaction of the Authorized Officer as stated in writing.

2.12.2. All cut and fill slopes shall be left in a stable condition.

2.12.3. Materials from Access Roads, haul ramps, berms, dikes, and other earthen structures shall be disposed of as directed in writing by the Authorized Officer.

2.12.4. Vegetation, overburden and other materials removed during clearing operations shall be disposed of by Permittees in a manner approved in writing by the Authorized Officer.

2.12.5. Upon completion of restoration, Permittees shall immediately remove all equipment and supplies from the site.

2.13. Reporting of Oil Discharges

2.13.1. A discharge of Oil by Permittees into or upon the navigable waters of the United States, adjoining shorelines, or into or upon the waters of the contiguous zone in violation of the Federal Water Pollution Control Act, as amended, 33 U.S.C. § 1321 *et seq.* and the regulations issued thereunder, or in violation of applicable laws of the State of Alaska and regulations issued thereunder, is prohibited. Permittees shall give immediate notice of any such discharge to: (1) the Authorized Officer; and (2) such other Federal and State officials as are required by law to be given such notice.

2.13.2. Permittees shall give immediate notice of any spill or leakage of Oil or other pollutant from the Pipeline, the Valdez terminal facility, or any storage facility to: (1) the Authorized Officer; and (2) such other Federal and State officials as are required by law to be given such notice. Any oral notice shall be confirmed in writing as soon as possible.

2.14. Contingency Plans

2.14.1. It is the policy of the Department of the Interior that there should be no discharge of Oil or other pollutant into or upon lands or waters. Permittees must therefore recognize their prime responsibility for the protection of the public and environment from the effects of spillage.

2.14.2. Permittees shall submit their contingency plans to the Authorized Officer at least one-hundred and eighty (180) days prior to scheduled start-up. The plans shall conform to this Stipulation and the National Oil Hazardous Substances Pollution Contingency Plan, 36 F.R. 16215, August 20, 1971, and shall: (1) include provisions for Oil Spill Control [1]; (2) specify that the action agencies responsible for contingency plans in Alaska shall be among the first to be notified in the event of any Pipeline System failure resulting in an Oil spill; (3) provide for immediate corrective action including Oil Spill Control and restoration of the affected resource; (4) provide that the Authorized Officer shall approve any materials or devices used for Oil Spill Control and shall approve any disposal sites or techniques selected to handle oily matter; and (5) include separate and specific techniques and schedules for cleanup of Oil spills on land, lakes, rivers and streams, sea, and estuaries.

2.14.3. Prior to Pipeline start-up, such plans shall be approved in writing by the Authorized Officer, and Permittees shall demonstrate their capability and readiness to executive the plans. Permittees shall update as appropriate the plans and methods of im-

[1] As used in this Stipulation 2.14.2, Oil Spill Control is defined as: (1) detection of the spill; (2) location of the spill; (3) confinement of the spill; and (4) cleanup of the spill.

plementation thereof, which shall be submitted annually to the Authorized Officer for his written approval.

2.14.4. If during any phase of the construction, operation, maintenance or termination of the Pipeline, any Oil or other pollutant should be discharged from the Pipeline System, the control and total removal, disposal and cleaning up of such Oil or other pollutant, wherever found, shall be the responsibility of Permittees, regardless of fault. Upon failure of Permittees to control, dispose of, or clean up such discharge, the Authorized Officer may take such measures as he deems necessary to control and clean up the discharge at the full expense of Permittees. Such action by the Authorized Officer shall not relieve Permittees of any responsibility as provided herein.

3. Technical

3.1. General

3.1.1. The following standards shall be complied with in design, construction, operation and termination of the Pipeline System.

3.2. Pipeline System Standards

3.2.1. General Standards

3.2.1.1. All design, material and construction, operation, maintenance and termination practices employed in the Pipeline System shall be in accordance with safe and proven engineering practice and shall meet or exceed the following standards:

(1) U.S.A. Standard Code for Pressure Piping, ANSI B 31.4, "Liquid Petroleum Transportation Piping System."

(2) Department of Transportation Regulations, 49 CFR, Part 195, "Transportation of Liquids by Pipeline."

(3) ASME Gas Piping Standard Committee, 15 Dec. 1970: "Guide for Gas Transmission and Distribution Piping System."

(4) Department of Transportation Regulations, 49 CFR, Part 192, "Transportation of Natural and Other Gas by Pipelines: Minimum Federal Safety Standards."

3.2.1.2. Requirements in addition to those set forth in the above minimum standards may be imposed by the Authorized Officer as necessary to reflect the impact of subarctic and arctic environments. If any standard contains a provision which is inconsistent with a provision in another standard, the more stringent shall apply.

3.2.2. Special Standards

3.2.2.1. The design shall also provide for remotely controlled shutoff valves at each pump station; remotely controlled mainline block valves (intended to control spills); and additional valves located with the best judgment regarding wildlife habitat, fish habitat, and potentially hazardous areas.

3.2.2.2. All practicable means shall be utilized to minimize injury to the ground organic layer.

3.2.2.3. Radiographic inspection of all main line girth welds and pressure testing of the Pipeline shall be conducted by Permittees prior to placing the system in operation.

3.2.2.4. Permittees shall provide for continuous inspection of Pipeline System construction to ensure compliance with the approved design specifications and these Stipulations.

3.2.2.5. Welder qualification tests shall be by destructive means, except that operators of automatic welding equipment for girth welding of tank seams shall be tested by radiography in accordance with ASME Boiler and Pressure Vessel Code, Section 9, Subsection Q–21(b).

3.2.2.6. Lightning protection shall conform to the requirements of ANSI C5.1—1969, "Lightning Protection Code—1968."

3.2.3. Standards for Access Roads

3.2.3.1. Design, materials and construction practices employed for Access Roads shall be in accordance with safe and proven engineering practice and in accordance with the principles of construction for secondary roads for the subarctic and arctic environments.

3.2.3.2. Permittees shall submit a layout of each proposed Access Road for approval by the Authorized Officer in accordance with Stipulation 1.7.

3.2.3.3. Access Roads shall be constructed to widths suitable for safe operation of equipment at the travel speeds proposed by Permittees.

3.2.3.4. The maximum allowable grade shall be 12 percent unless otherwise approved in writing by the Authorized Officer.

3.3. Construction Mode Requirements

3.3.1. The selection of the Construction Mode (elevated or buried) shall be governed by the following criteria: (1) There shall be an unobstructed air space of at least two feet between the pipe and ground surface; or (2) There shall be no greater heat transfer from the pipe to the ground than results from the use of an unobstructed air space of at least two (2) feet between the pipe and ground surface; or (3) Below the level of the pipe axis the ground shall consist of competent bedrock, soil naturally devoid of permafrost, or if frozen, of Thaw-Stable Sand and Gravel.[2] Above the level of the pipe axis other materials may be present but it must be shown that they will remain stable under all credible conditions; or (4) Results of a detailed field exploration program and analysis indicate that pipe rupture and major terrain disruption will not occur at any place from soil instability. Effects and their interaction, which are to be analyzed on a mile by mile basis to justify the proposed Construction Mode, shall include but not be limited to, thaw plug stability, differential settlement, seismic loading and weakening, and possible movement resulting from slope instability.[3]

As a prerequisite for the use of this criterion, an acceptable comprehensive monitoring system of the Pipeline shall be developed which will include but not be limited to making deformation measurements sufficiently sensitive and prompt to detect the approach to operational tolerance limits (which shall be clearly specified) of the Pipeline; design specifications, operational requirements, and feasibility analysis of such monitoring system shall be submitted in accordance with Stipulation 1.7. Such system shall be operational prior to transmission of Oil through the Pipeline.

3.4. Earthquakes and Fault Displacements

3.4.1. Earthquakes

3.4.1.1. The Pipeline System shall be designed, where technically feasible, by appropriate application of modern, state-of-the-art seismic design procedures to prevent any Oil leakage from the effects (including seismic shaking, ground deformation and earthquake-induced mass movements) of earthquakes distributed along the route as follows:

Zone:	*Richter magnitude*
Valdez to Willow Lake	8.5
Willow Lake to Paxson	7.0
Paxson to Donnelly Dome	8.0
Donnelly Dome to 67 deg. N	7.5
67 deg. N. to Prudhoe Bay	5.5

3.4.1.2. Where such design is not technically feasible, the potential damage from an Oil spill shall be minimized by special design provisions that shall include, but shall not be limited to: (1) a network of ground-motion detectors that continuously monitor, record and instantaneously signal the occurrence of ground motion in the vicinity of the Pipeline reaching the Operational Design Level[4] (the critical levels of ground motions shall be approved in writing by the Authorized Officer); (2) rapid programmed shutdown and prompt close inspection of system integrity in the event of ground motion reaching the Operational Design Level; and (3) a special contingency plan for Oil Spill Control for each such seismically hazardous area which shall be filed in accordance with Stipulation 2.14. This plan shall specifically consider expected field conditions in the particular area in the aftermath of a destructive earthquake.

3.4.2. Fault Displacements

3.4.2.1. Prior to applying for a Notice to Proceed for any Construction Segment, Permittees shall satisfy the Authorized Officer that all recognizable or reasonably inferred faults or fault zones along the alignment within that segment have been identified and delineated, and that the risk of Oil leakage resulting from fault movement and ground deformation has been adequately assessed and provided for in the design of the Pipeline for that segment. Evaluation of said risk shall be based on geologic, geomorphic, geodetic, seismic, and other appropriate scientific evidence of past or present fault behavior and shall be compatible with the design earthquakes tabulated above and with observed relationships between earthquake magnitude and extent and amount of deformation and fault slip within the fault zone.

3.4.2.2. Minimum design criteria for a segment of the Pipeline traversing a fault zone that is reasonably interpreted as active, shall be: (1) that the Pipeline resist failure resulting in leakage from two feet of horizontal and/or vertical displacement in the foundation material anywhere within the fault zone; and (2) that no storage tank or pump station be located within the fault zone.

3.4.2.3. Where the Pipeline crosses a fault or lies within a fault zone that is reasonably interpreted as active, Permittees shall monitor crustal deformation in the vicinity of the Pipeline. Such monitoring shall include annual geodetic observation of permanent reference marks established on stable ground. Said reference marks shall be positioned so as to form closed figures and to provide for detection of relative horizontal and vertical displacements as small as 0.10 ft. across principal individual faults within the fault zone and to provide for monitoring of crustal strain with an absolute error of two parts per million within the fault zone. Further, where annual slip on a fault exceeds 0.10 ft. for two successive years, Permittees shall install recording or telemetering slip-meters. Data obtained from the monitoring shall be provided to the Authorized Officer at specified regular intervals throughout the operational life of the Pipeline. Said data shall be used by the Permittees to aid in the initiation of corrective measures to protect the

[2] Thaw-Stable Sand and Gravel is defined as material meeting the following requirements: (a) Material lies within the classes GW, GP, SW, and SP, (Unified Soil Classification) but with up to 6% by weight passing the #200 U.S. standard sieve; if an inorganic granular soil contains more than 6% fines than the #200 sieve, its thaw-stability must be justified. (b) There is no excess (segregated or massive) ice. (c) Thawing of the material *in situ* will not result in excess porepressure.

[3] Because of soil variability and/or unique hydrologic conditions in active flood plains some of the requirements of Stipulation 3.3.1 may not be met in those locations. In such cases proposed designs including special design and/or construction procedures where required by these conditions must be submitted with justification to the Authorized Officer for approval in accordance with Stipulation 1.7.

[4] Highest level that would not produce general pipe deformation sufficient to limit operations.

Pipeline from failure caused by tectonic deformation that would result in leakage.

3.5. Slope Stability

3.5.1. Areas subject to mudflows, landslides, avalanches, rock falls and other types of mass movements shall be avoided where practicable in locating the Pipeline. Where such avoidance is not practicable, the Pipeline design, based upon detailed field investigations and analysis, shall provide measures to prevent the occurrence of, or protect the Pipeline against, the effects of mass movements.

3.6. Stream and Flood Plain Crossings and Erosion.

3.6.1. General

3.6.1.1. For each region through which the Pipeline passes, the Pipeline shall be designed to withstand or accommodate the effects (including runoff, stream and flood plain erosion, meander cutoffs, lateral migration, ice-jams, and icings) of those meteorologic, hydrologic (including surface and subsurface) and hydraulic conditions considered reasonably possible for the region. The following standards shall apply to such Pipeline design:

3.6.1.1.1. For stream crossings and portions of the Pipeline within the flood plain.

3.6.1.1.1.1. The Pipeline shall cross streams underground unless a different means of crossing is approved in writing by the Authorized Officer.

3.6.1.1.1.2. The design flood shall be based on the concept of the "Standard Project Flood" as defined in Corps of Engineers Bulletin 52-8, Part 1.

3.6.1.1.1.3. The depth of channel scour shall be established by appropriate field investigations and theoretical calculations using those combinations of water velocity and depth that yield the maximum value. At the point of maximum scour, the cover over the pipe shall be at least twenty (20) percent of the computed scour, but not less than four (4) feet.

3.6.1.1.1.4. For overhead crossings comparable analysis shall be made to ensure that support structures are adequately protected from the effects of scour, channel migration, undercutting, ice forces and degradation of permafrost.

3.6.1.1.1.5. In flood plains, appropriate construction procedures shall be used wherever there is potential channelization along the pipe.

3.6.1.1.1.6. The pipe trench excavation shall stop an adequate distance from the water crossing to leave a protective plug (unexcavated material) at each bank. These plugs shall be left in place until the stream bed excavation is complete and the pipe laying operation is begun. The plugs shall not be completely removed until absolutely necessary. The trench shall be backfilled with stable material as soon as the pipe is laid.

3.6.1.2. Culverts and Bridges.

3.6.1.2.1. Culverts and bridges necessary for maintenance of the Pipeline shall be designed to accommodate a fifty (50)-year flood in accordance with criteria established by the American Association of State Highway Officials and the Federal Highway Administration and endorsed by the State of Alaska Department of Highways.

3.6.2. Erosion

3.6.2.1. Where necessary because of outfall erosion, stilling basins shall be constructed at the outflow end of culverts. To prevent erosion the pool sides shall be stabilized by appropriate methods; e.g., by the use of riprap.

3.6.2.2. Slopes of cuts through stream banks shall be designed and constructed to minimize erosion and prevent slides.

3.6.2.3. Erosion control procedures shall accommodate and be based on the runoff produced by the maximum rainfall rate and snow melt rate combination reasonably characteristic of the region. The procedures shall also accommodate effects that result from thawing produced by flowing or ponded water on permafrost terrain.

3.7. Sea Waves

3.7.1. Oil transfer facilities at the Valdez terminal shall be protected by cut-off devices designed and located to prevent major Oil leakage from breaking of pipes by destructive sea waves comparable to those generated in Port Valdez by the March 27, 1964 earthquake. Design for such protective features shall be submitted in accordance with Stipulation 1.7.

3.8. Glacier Surges

3.8.1. Surveillance systems sufficient to give adequate warning of impending surges on any glacier that could damage the Pipeline shall be instituted prior to transmission of Oil through the pipe. Procedures for initiation and operation of such surveillance systems and protective procedures in the event of such surges shall be submitted in accordance with Stipulation 1.7.

3.9. Construction and Operation

3.9.1. All construction, operation, maintenance, and termination activities in connection with the Pipeline System shall be conducted so as to avoid or minimize thermal and other environmental changes and to provide maximum protection to fish and wildlife and their habitat, and people. All working platforms, pads, fills and other surface modifications shall be planned and executed in such a way that any resulting degradation of permafrost will not jeopardize the Pipeline foundations.

3.9.2. Acceptable plans, procedures and quality controls that ensure compliance with Stipulation 3.9.1 shall be submitted in accordance with Stipulation 1.7.

3.10. Pipeline Corrosion

3.10.1. Permittees shall provide detailed plans for corrosion resistant design and methods for early detection of corrosion. These shall include: (1) pipe material and welding techniques to be used and information on their particular suitability for the environment involved; (2) details on the external pipe protection to be provided (coating, wrapping, etc.), including information on variation of the coating process to cope with variations in environmental factors along the Pipeline route; (3) plans for cathodic protection including details of impressed ground sources and controls to ensure continuous maintenance of adequate protection over the entire surface of the pipe; (4) details of plans for monitoring cathodic protection current including spacing of current monitors; (5) provision for periodic intensive surveys of trouble spots, regular preventive maintenance surveys and special provisions for abnormal potential patterns resulting from the crossing of the Pipeline by other pipelines or cables; and (6) information on precautions to be taken to prevent internal corrosion of the Pipeline. Permittees shall also provide for periodic internal pitting surveys by electro-magnetic or other means.

3.11. Containment of Oil Spills

3.11.1. Permittees shall provide Oil spill containment dikes or other structures around storage tanks at pump stations and at the Valdez terminal. The volume of the containment structures shall be at least: (1) one-hundred ten (110) percent of the total storage volume of the storage tanks in the relevant area, plus (2) a volume sufficient for maximum trapped precipitation and runoff which might be impounded at the time of the spill. Such structures shall be constructed to withstand failure from earthquakes in accordance with Stipulation 3.4 and shall be impervious so as to provide seepage-free storage until disposal of their contents can be effected safely without contamination of the surrounding area.

3.11.2. Permittees shall provide containment dikes or other structures to minimize effects of Oil spills at critical locations along the Pipeline in accordance with Stipulation 2.14.

EXHIBIT E—COOPERATIVE AGREEMENT BETWEEN U.S. DEPARTMENT OF THE INTERIOR AND STATE OF ALASKA REGARDING THE PROPOSED TRANS-ALASKA PIPELINE

This agreement, effective this 8th day of January, 1974, by and between the United States Department of the Interior (hereinafter referred to as the "Department") and the State of Alaska (hereinafter referred to as the "State"), which together are hereinafter referred to jointly as "Parties."

WITNESSETH

Whereas, the State has the authority pursuant to AS 38.05.020 to enter into this agreement with the Department in order to protect the lands, waters and natural environment of Alaska;

Whereas, the Secretary of the Interior (hereinafter referred to as the "Secretary") has the authority to enter into agreements involving the improvement, management, use and protection of the public lands and their resources pursuant to Section 102 of the Public Land Administration Act, 74 Stat. 506 (1960), 43 U.S.C. § 1363 (1970);

Whereas, the Parties have been requested to issue rights-of-way and other authorizations for the construction of an oil pipeline system from Prudhoe Bay to Valdez, Alaska;

Whereas, the Congress of the United States has determined that early construction of such an oil pipeline system is in the national interest and has authorized and directed the Secretary and other appropriate Federal officers and agencies to issue and take all necessary action to administer and enforce rights-of-way and other authorizations that are necessary for or related to the construction of the Trans-Alaska oil pipeline system.

Whereas, the Legislature of Alaska, in special session, has enacted legislation to establish authority and guidelines for a right-of-way lease for that system;

Whereas, the Secretary will designate a Federal Authorized Officer and the Governor of Alaska will appoint a State Pipeline Coordinator who will, respectively, have general supervision and control over the functions in Alaska of the Department and the State with respect to the construction of the pipeline system;

Whereas, it is anticipated that detailed technical and environmental stipulations relating to construction of the pipeline system will be incorporated in the right-of-way and other authorizations of each of the Parties, and that the State and Federal stipulations will be similar in all major respects;

Whereas, it is necessary to provide for review and approval of designs and surveillance of construction activities in order to assure compliance with the aforesaid stipulations; and

Whereas, it is the purpose of this agreement to promote an effective working relationship between the Parties in order to provide maximum protection for the environment without unnecessary delays in construction of the pipeline system;

Now, therefore, the Parties agree as follows:

I. LANDS—LEASE AND PERMIT

1. The State and Department recognize the following categories of land to be made subject to the rights-of-way and other authorizations of the State or the Department and that such lands constitute all of the land along the proposed pipeline right-of-way that is not owned by private parties and therefore is subject to the authority of either the Department or the State to authorize rights-of-way.

(a) Lands patented to the State.

(b) Lands selected by and tentatively approved to the State and not withdrawn under section 11(a)(2) of the Alaska Native Claims Settlement Act, 85 Stat. 696, 43 U.S.C. § 1610 (1970).

(c) Lands selected by the State and not tentatively approved and not withdrawn un-

der section 11(a)(2) of the Alaska Native Claims Settlement Act.

(d) Lands selected by the State and not tentatively approved and which were withdrawn under section 11(a)(2) of the Alaska Native Claims Settlement Act but which are not available for village or regional selection under section 22(l) of the Alaska Native Claims Settlement Act, 85 Stat. 713, 43 U.S.C. § 1621 (1970).

(e) Lands selected by the State, both tentatively approved and not tentatively approved, and withdrawn under section 11(a)(2) of the Alaska Native Claims Settlement Act.

(f) Lands beneath navigable waters as defined in Section 2 of the Submerged Lands Act, 67 Stat. 29, 43 U.S.C. § 1301 (1970).

(g) Lands in Federal ownership that have not been selected by the State.

2. The State will issue its right-of-way and other authorizations for lands in categories 1(a), 1(b), and 1(f). The Department will issue its rights-of-way and other authorizations for lands in categories 1(e) and 1(g).

3. Both the State right-of-way lease or other grant and the Federal right-of-way authorization will include the lands in categories 1(c) and 1(d) and each will be effective in accordance with the following terms:

(a) Lands in category 1(c) will be tentatively approved or patented to the State no later than fifteen (15) days after compliance by the Parties with all applicable regulations. The Parties will immediately initiate and expeditiously complete such compliance. The State will thereupon immediately proceed to issue a right-of-way lease or other grant and such authorizations as are necessary for construction and operation of the pipeline system on said lands.

(b) The Department will take all necessary action preparatory to tentatively approving or patenting the lands in category 1(d) to the State within twenty-five (25) days from the effective date of this agreement and will tentatively approve or patent those lands promptly upon receipt of notice from the Commissioner of Natural Resources that the State is prepared to issue a right-of-way lease or other grant and such other authorizations as are necessary for construction and operation of the pipeline system on said lands.

(c) The Federal right-of-way in and to lands in categories 1(c) or 1(d), or both, will vest in the Parties receiving it on the date it is issued by the Department but only upon the occurrence of one of the following events, whichever occurs first:

(i) The Commissioner of Natural Resources notifies the Secretary in writing that it is essential for the expeditious construction of the pipeline system that the Federal right-of-way in and to some or all of the lands in categories 1(c) or 1(d), or both, vest in the Parties receiving it; or

(ii) The lands in category 1(d) have not been tentatively approved to the State and a valid State right-of-way lease or other grant in and to those lands has not been issued for the construction and operation of the pipeline system by March 10, 1974; or

(iii) The lands in category 1(c) have not been tentatively approved to the State and a valid State right-of-way lease or other grant in and to those lands has not been issued for the construction and operation of the pipeline system by June 1, 1974;

Provided as conditions: First, that the Federal right-of-way is made subject to the State's valid pre-existing rights, if any, in and to those lands; Second, that upon either valid tentative approval or valid patent of any of those lands to the State, the existence or subsequent issuance of a valid State right-of-way lease or other grant in and to those lands terminates the Federal right-of-way and other authorizations, and the State right-of-way lease or other grant thereupon applies in all respects to those lands; Third, that the parties who receive the Federal right-of-way and other authorizations agree in writing to the first and second conditions herein and that they will not challenge the validity of the State's right-of-way lease or other grant on the basis of the existence of the Federal right-of-way and other authorizations or their interest therein, and the Federal right-of-way recites these three conditions; and, Fourth, that the Department will make every reasonable effort to tentatively approve and patent the lands to the State expeditiously.

II. SURVEILLANCE

1. While the Parties will establish and maintain separate organizations to assure compliance with the terms and stipulations of their respective right-of-way authorizations and with their respective statutes and regulations, they will seek to coordinate the activities of these organizations as fully as possible. In the execution of their respective responsibilities the Parties will seek to provide maximum protection for the environment without unnecessary delays in construction of the pipeline. Pursuant to this general agreement, it is further agreed that:

(a) The Parties will endeavor, both in central offices and in the field, to locate all personnel in the surveillance effort, including agents and third party contractors, in common locations and to utilize, insofar as possible, common logistical support, with the objective of maximizing communication between the two organizations.

(b) Except as prohibited by law or by the Department's pipeline right-of-way agreement with the owners of the Trans-Alaska pipeline, (but the owners will be required by the State right-of-way lease to make the same available to the State), the Parties will share fully all information concerning the construction of the pipeline system and the surveillance thereof. The State and the Federal organizations will have complete and immediate access to the information of the other, on request, and there will be regular exchange of information regarding design reviews, application for and issuances of notices to proceed, temporary suspension orders, modification orders, reports on compliance in the field, construction change recommendations, all submissions by the holders of the rights-of-way, all third party contractor reports, applications for and issuance of permission to resume activity, and all other similar information. The timing, location, method and type of information exchanged shall be governed by the objective of the fullest possible access to information practical in order to maximize the decision-making capability of the Parties.

(c) The Parties will have full and free access to the lands of each other for all purposes relating to the surveillance of the pipeline system and the enforcement of all State and Federal statutes and regulations.

2. All applications for notices to proceed, together with supporting documents, will be reviewed by both the State Pipeline Coordinator and the Federal Authorized Officer.

The State right-of-way lease will contain provisions regarding notices to proceed that assure review by the Pipeline Coordinator within the same time period as provided in the Department's right-of-way authorizations. The Authorized Officer or his designee, on behalf of the Department, may issue notices to proceed involving construction of any portion of the pipeline system. The Pipeline Coordinator or his designee, on behalf of the State, may issue notices to proceed with respect to any construction of the pipeline system on State lands, and no notice to proceed on lands subject to the State right-of-way lease will be effective unless signed by the State Pipeline Coordinator.

3. On lands subject to the Federal right-of-way authorizations, the Department will determine compliance with the terms and stipulations regulating the construction of the pipeline system. On lands subject to the Federal right-of-way authorization, where applicable statutes and regulations of the State providing for the protection of resources, the environment, or public health, safety or general welfare, impose additional requirements to, or more stringent standards than, those required by the Federal terms and stipulations for pipeline construction, operation or maintenance, the State law will control.

4. On lands subject to the State right-of-way lease, the determination of compliance with those terms and stipulations regulating the construction of the pipeline system which do not directly affect the physical integrity of the pipeline, but which are necessary for the protection of State lands and resources shall be made exclusively by the State. On such lands the State or the Department may issue any orders necessary to assure compliance with those terms and stipulations regulating the construction of the pipeline system that are necessary to protect the physical integrity of the pipeline.

5. The Parties recognize that the unique characteristics of the arctic and subarctic environment require special efforts to provide it with optimum protection. The Parties will make every reasonable effort to ensure that construction and operation methods and activities will be planned and executed so as to minimize environmental degradation.

6. Fish and wildlife protection is regarded by the Parties as a special responsibility of the surveillance effort which extends with common concern over the length of the pipeline. The Parties will encourage the formation, to the extent practicable, of a cooperative effort for such protection, sharing the fish and game personnel and information resources of both the State and Federal Governments, and the application of this cooperative effort over both State and Federal lands.

7. The Department shall have full and free access at all times to the Valdez terminal site for the purpose of enforcing the Department's stipulations at that facility. The State will assure such access to the Department by making appropriate provisions therefor in any lease or conveyance it may issue or grant with respect to the lands embraced in the Valdez terminal site.

III. STATE HIGHWAY AND STATE AIRPORTS

1. The Department agrees to take such action pursuant to the Trans-Alaska Pipeline Authorization Act of November 16, 1973, P.L. 93–153, as are necessary for the State to construct a public highway from the Yukon River to Prudhoe Bay. The State agrees to construct the highway according to the Highway and Airport Stipulations attached hereto as Exhibit "A" and, if the State contracts to build the highway, to include said stipulations as a part of any agreement with its contractors.

2. The State has furnished the Department a map of the intended location of the highway, and upon completion of construction of the highway will file with the Department a map of definite location of the highway of similar scale.

3. The Department agrees to lease three sites for public airports pursuant to the Trans-Alaska Pipeline Authorization Act (*supra*). The State agrees to build the airports according to those provisions of the Highway and Airport Stipulations that are pertinent to airport construction, and if the State contracts to build the airports, to include said stipulations as a part of any agreement with such contractors.

4. The Department agrees to take all actions necessary to provide to the State, under nonexclusive permits, the free use of

gravel or other materials necessary for construction of the State highway and the State airports pursuant to the Trans-Alaska Pipeline Authorization Act (*supra*). All free use permits issued by the Department for such material sites shall include provisions of the Highway and Airport Stipulations applicable to material sites.

5. The State shall have the right and responsibility to enforce the applicable provisions of the Highway and Airport Stipulations referring to the construction of the State highway and State airports.

IV. MISCELLANEOUS

1. The Federal Authorized Officer and the State Pipeline Coordinator will develop procedures to implement the provisions of this agreement.

2. In the implementation of this agreement, each Party will avoid unnecessary employment of personnel and needless expenditure of funds.

3. This agreement shall remain in effect until construction of the Trans-Alaska pipeline is completed. However, in the event that either Party deems it necessary or desirable to terminate this agreement at an earlier time, it may do so after giving the other Party sixty (60) days advance written notice thereof.

In witness whereof, the Parties hereto have executed this agreement as of the date shown below:

UNITED STATES OF AMERICA,
DEPARTMENT OF THE INTERIOR,
(s) ROGERS C. B. MORTON
Secretary of the Interior.
STATE OF ALASKA,
(s) WILLIAM A. EGAN,
Governor, State of Alaska.
JANUARY 8, 1974.

EXHIBIT A—HIGHWAY AND AIRPORT STIPULATIONS

1. Definitions

1.1. "Highway" means the State highway from the Yukon River to Prudhoe Bay, Alaska; and includes all permanent roads, bridges, tunnels, drainage structures, signs, guardrails, protective structures, and appurtenances related thereto or used in connection therewith.

1.2. "Airports" means the three public airports for which the State of Alaska made application on March 20, 1970, under 49 U.S.C. §§ 211–214 (1970).

1.3. "State Pipeline Coordinator" means that individual designated by the State of Alaska with authority over and responsibility for the supervision of design review and construction of the Pipeline System or his designee.

1.4. "Federal Authorized Officer' means the Secretary of the Interior, or a person delegated to exercise his authority with respect to the Pipeline System.

1.5. "Contractor" means the individual, corporation, or other entity, or the subcontractor or agent of such individual, corporation or other entity, with which the State of Alaska contracts to build the Highway or Airports. In the event that the State undertakes to build the Highway or Airports itself, "Contractor" shall mean the State of Alaska.

1.6. "Notice to Proceed" means a document signed by the State Pipeline Coordinator authorizing some aspect of the construction of the Highway or Airports.

2. Procedures

2.1. Regulation of Public Access

2.1.1. During construction of the Highway, the State shall provide alternative routes for existing roads and trails across public lands.

2.1.2. The State shall make provisions for suitable permanent crossings for the public where the Highway right-of-way crosses existing roads, foot-trails, winter trails, or other rights-of-way.

2.2 Applicability of Stipulations

2.2.1. Nothing in these Stipulations shall be construed as applying to activities of the State that have no relation to the Highway or Airports.

2.2.2. Nothing in these Stipulations shall be construed to affect any right or cause of action that otherwise would be available to the State against any person other than the United States.

2.3 Responsibilities

2.3.1. With regard to the construction of the Highway and Airports: (1) The State shall ensure full compliance with the terms and conditions of these Stipulations by its agents, employees and contractors (including subcontractors of any tier), and the employees of each of them. (2) Unless clearly inapplicable, the requirements and prohibitions imposed upon the State by these Stipulations are also imposed upon the State's agents, employees, contractors, and subcontractors, and the employees of each of them. (3) Failure or refusal of the State's agents, employees, contractors, subcontractors, or their employees to comply with these Stipulations shall be deemed to be the failure or refusal of the State. (4) The State shall require its agents, contractors, and subcontractors to include these Stipulations in all contracts and subcontracts which are entered into by any of them, together with a provision that the other contracting party, together with its agents, employees, contractors, subcontractors, and the employees of each of them, shall likewise be bound to comply with these Stipulations.

2.3.2. The State shall make separate application, under applicable statutes and regulations, for authorization to use or occupy Federal lands in connection with the Highway or Airports where the lands are not within the Highway right-of-way or Airport leases. This shall include material sites, camp sites, waste areas, storage areas, access roads, etc.

2.3.3. The Federal Authorized Officer may require modification of the Highway or Airports, without liability or expense to the United States, as necessary to protect the integrity of the Trans-Alaska Pipeline.

2.4. Highway Design Approval

2.4.1. The State shall require detailed design submittals from Contractor for all river and stream crossings.

2.4.2. All such submittals shall be reviewed by the State Pipeline Coordinator for conformity with the Stipulations set forth herein.

2.4.3. Upon approval of such design, a Notice to Proceed shall be executed and transmitted to the Contractor. Such document shall authorize the commencement of construction on the element of the Highway for which design is approved.

2.5. Suspension of Construction

2.5.1. In the event the State Pipeline Coordinator determines that the Contractor is in violation of these Stipulations, he may order suspension of that portion of the work in violation.

2.5.2. In the event that the Federal Authorized Officer determines that the Contractor is in violation of these Stipulations, he may recommend that the State Pipeline Coordinator order suspension of that portion of the work he deems to be in violation.

2.4. Changes in Conditions

Unforeseen conditions arising during design or construction of the Highway or Airports may make it necessary to revise or amend these Stipulations to protect the environment and the public interest. In that event, the Federal Authorized Officer and the State Pipeline Coordinator, shall agree as to what revisions or amendments shall be made. If they are unable to agree, the Federal Authorized Officer shall have final authority to determine the matter if the Airports are involved, and the State Pipeline Coordinator shall have final authority to determine the matter if the Highway is involved.

3. Contractor Stipulations—General

3.1. Equal Employment Opportunity

By accepting this contract, Contractor agrees that, during the period of construction of the Highway and Airports, or for so long as this permit shall be in effect, whichever is the longer, he shall comply with this Stipulation.

3.1.1. Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. Contractor will take affirmative action to ensure that applicants are employed, and that employees are equally treated during employment, without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be approved by the Authorized Officer setting forth the provision of this equal opportunity clause.

3.1.2. Contractor will, in all solicitations or advertisements for employees placed by or on behalf of Contractor, state that all qualified applicants will receive consideration for employment without regard to race, religion, sex, color or national origin.

3.1.3. Contractor will send to each labor union or representative of workers with which Contractor has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the Authorized Officer, advising the labor union or worker's representatives of Contractor commitments under this equal opportunity clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

3.1.4. Contractor will comply with Executive Order No. 11246 of September 24, 1965, as amended, and rules and regulations and relevant orders of the Secretary of Labor.

3.1.5. Contractor will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, as amended, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to Contractor's books, records, and accounts by the State Pipeline Coordinator and the Federal Authorized Officer and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

3.1.6. In the event of Contractor's noncompliance with this equal opportunity clause or with any of said rules, regulations, or orders, this contract may be cancelled, terminated or suspended in whole or in part and Contractor may be declared ineligible for further government contracts or permits in accordance with procedures authorized in Executive Order No. 11246 of September 24, 1965, as amended, and such other sanctions may be imposed and remedies invoked as provided in Executive Order No. 11246 of Septemper 24, 1965, as amended, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

3.1.7. Contractor will include the provisions of this equal opportunity clause in every contract, subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order No. 11246 of September 24, 1965, as amended, so that such provisions will be binding upon each contractor, subcontractor or vendor. Contractor will take such action with respect to any contract, subcontract, or purchase order as the Authorized Officer may direct as a means of enforcing such provisions including sanctions for noncompliance; provided, how-

ever, that in the event Contractor becomes involved in, or is threatened with, litigation with a contractor, subcontractor or vendor as a result of such direction by the State Pipeline Coordinator, Contractor may request the United States to enter into such litigation to protect the interests of the United States.

3.1.8. Contractor further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work.

3.1.9. Contractor agrees that it will assist and cooperate actively with the State Pipeline Coordinator and the Federal Authorized Officer and the Secretary of Labor in obtaining the compliance of Contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the State Pipeline Coordinator and the Federal Authorized Officer and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the State Pipeline Coordinator in securing compliance.

3.1.10. Contractor further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order No. 11246 of September 24, 1965, as amended, with a Contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon Contractors and subcontractors by the Federal Authorized Officer or the Secretary of Labor, pursuant to Part II, Subpart D, of the Executive Order. In addition, Contractor agrees that if it fails or refuses to comply with these undertakings, the State Pipeline Coordinator may take any or all of the following actions: Cancel, terminate, or suspend in whole or in part this contract; refrain from extending any further assistance to Contractor under the program with respect to which the failure or refusal occurred until satisfactory assurance of future compliance has been received from the Contractor; and refer the case to the Department of Justice for legal proceedings.

3.1.11. Certification of Nonsegregated Facilities

By accepting this contract, Contractor certifies that Contractor does not and will not maintain or provide for Contractor's employees any segregated facilities at any of Contractor's establishments, and that Contractor does not and will not permit Contractor's employees to perform their services at any location, under Contractor's control, where segregated facilities are maintained. Contractor agrees that a breach of this certification is a violation of the equal opportunity clause of this permit. As used in this certification, the term "segregated facilities" means, but is not limited to, any waiting rooms, work areas, restrooms and washrooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees which are segregated by explicit directive or are in fact segregated on the basis of race, color, religion, or national origin, because of habit, local custom or otherwise. Contractor further agrees that (except where Contractor has obtained identical certifications from proposed Contractors and subcontractors for specific time periods) Contractor will obtain identical certifications from proposed Contractors and subcontractors prior to the award of contracts or subcontracts exceeding $10,000 which are not exempt from the provisions of the equal opportunity clause; the Contractor will retain such certifications in Contractor's files; and the Contractor will forward the following notice to such proposed Contractors and subcontractors (except where the proposed Contractors or subcontractors have submitted identical certifications for specific time periods): "Notice to Prospective Contractors and Subcontractors of requirement for certification of non-segregated Facilities." A Certification of Nonsegregated Facilities, as required by the order (32 F.R. 7439, May 19, 1967) on Elimination of Segregated Facilities, by the Secretary of Labor, must be submitted prior to the award of a contract or subcontract exceeding $10,000 which is not exempt from the provisions of the equal opportunity clause. The certification may be submitted either for each contract and subcontract or for all contracts and subcontracts during a period (i.e., quarterly, semiannually, or annually).

3.2. Liabilities and Responsibilities of Contractor

Contractor shall abate any condition existing with respect to the construction of the Highway or Airports that causes or threatens to cause serious and irreparable harm or damage to any person, structure, property, land, fish and wildlife and their habitats, or other resource. Any State or Federal property and fish and wildlife habitat harmed or damaged by the Contractor in connection with the construction of the Highway or Airports, regardless of fault, shall be reconstructed, repaired and rehabilitated by the Contractor to the written satisfaction of the State Pipeline Coordinator. Contractor shall be liable in accordance with applicable laws for loss or damage to property of others or for bodily injuries to or the death of any person arising from or connected with the construction of the Highway or Airports.

3.3 Federal, State and Local Laws and Regulations

Contractor shall comply with applicable Federal and State laws and all regulations issued thereunder, existing or hereafter enacted or promulgated, affecting in any manner construction of the Highway or Airports.

3.4 Antiquities and Historical Sites

Contractor shall engage an archeologist approved by the Federal Authorized Officer to provide surveillance and inspection of the Highway and Airport sites for archeological values. If, in connection with any operation under this contract, or any other contract entered in connection with the Highway or Airports, Contractor encounters known or previously unknown paleontological, archeological, or historical sites, Contractor shall immediately notify the Federal Authorized Officer and the State Pipeline Coordinator and said archeologist. Contractor's archeologist shall investigate and provide an on-the-ground opinion regarding the protective measures to be undertaken by Contractor. The Federal Authorized Officer may suspend that portion of Contractor's operations necessary to preserve evidence pending investigation of the site.

Six (6) copies of all surveys and excavation reports shall be filed with the Federal Authorized Officer and the State Pipeline Coordinator.

3.5. Termination of Use

Upon termination of use of any part of the Highway or Airports, Contractor shall remove all improvements and equipment, except as otherwise approved in writing by the State Pipeline Coordinator as to the Highway, and the Federal Authorized Officer as to the Airports, and shall restore the land to a condition that is satisfactory to them. The satisfaction of the State Pipeline Coordinator and Federal Authorized Officer shall be stated in writing.

All Access Roads shall be "put-to-bed" by Contractor upon completion of their use unless otherwise directed by the Federal Authorized Officer. "Put-to-bed" is used herein to mean that such roads shall be left in such stabilized condition that erosion will be minimized through the use of adequately designed and constructed waterbars, revegetation, and chemical surface control; that culverts and bridges shall be removed by Contractor in a manner satisfactory to the Federal Authorized Officer; and that such roads shall be closed to use. Contractor's rehabilitation plan shall be approved in writing by the State Pipeline Coordinator and the Federal Authorized Officer prior to termination of use of any such road or any part thereof.

3.6 Public Improvements

Contractor shall protect existing improvements on Federal and State lands during construction of the Highway or Airports. Except as authorized for temporary purposes by the State Pipeline Coordinator and Federal Authorized Officer, the Contractor shall not obstruct any road or trail with logs, slash, or debris.

3.7. Camping, Hunting, Fishing, and Trapping

Contractor shall satisfy the State Pipeline Coordinator that it has and will adequately inform its employees, agents, contractors, subcontractors, and their employees, of applicable laws and regulations relating to hunting, fishing, and trapping.

3.8. Small Craft Passage

The creation of any permanent obstruction to the navigation of small craft in streams is prohibited.

3.9. Survey Monuments

Contractor shall mark and protect all geodetic survey monuments encountered during the construction of the Highway or Airports. These monuments are not to be disturbed; however, if such a disturbance occurs, the Federal Authorized Officer shall be immediately notified thereof in writing.

If any land survey monuments, corners, or accessories (excluding survey monuments) are destroyed, obliterated or damaged, Contractor shall employ a qualified land surveyor to reestablish or restore same in accordance with the "Manual of Instructions for the Survey of Public Lands" and shall record such survey in the appropriate records. Additional requirements for the protection of monuments, corners, and bearing trees may be prescribed by the Federal Authorized Officer.

3.10. Fire Prevention and Suppression

Contractor shall promptly notify the State Pipeline Coordinator and the Federal Authorized Officer and take all measures necessary and appropriate for the prevention and suppression of fires in accordance with 43 CFR 2801.1–5(d). Contractor shall comply with their instructions and directions concerning the use, prevention and suppression of fires. Use of open fires in connection with construction of the Highway or Airports is prohibited unless authorized in writing by the State Pipeline Coordinator as to the Highway or the Federal Authorized Officer as to the Airports.

3.11. Health and Safety

Contractor shall take all measures necessary to protect the health and safety of all persons affected by its activities performed in connection with the construction of the Highway or Airports and shall immediately abate any health or safety hazards. Contractor shall immediately notify the State Pipeline Coordinator of all serious accidents which occur in connection with such activities.

4. Contractor Stipulations—Environmental

4.1. Environmental Briefing

Prior to and during construction of the Highway and Airports, Contractor shall provide for environmental and other pertinent briefings of construction and other personnel by such Federal and State employees as may be designated by the Federal Authorized Officer and the State Pipeline Coordinator. Contractor shall arrange the time, place and attendance for such briefings upon their request.

4.2. Pollution Control

4.2.1. General

Contractor shall conduct all activities associated with the Highway and Airports in a manner that will avoid or minimize degradation of air, land and water quality. In the construction of the Highway and Airports, Contractor shall perform its activities in accordance with applicable air and water quality standards and related plans of implementation, including emission standards, adopted pursuant to the Clean Air Act, as amended (42 U.S.C., sec. 1857, et seq.), and the Federal Water Pollution Control Act, as amended (33 U.S.C., sec. 1160).

4.2.2. Water and Land Pollution

4.2.2.1. Contractor shall comply with applicable "Water Quality Standards" of the State of Alaska as approved by the Environmental Protection Agency.

4.2.2.2. Mobile ground equipment shall not be operated in lakes, streams, or rivers unless such operation is approved in writing by the State Pipeline Coordinator.

4.2.3. Air Pollution and Ice Fog.

4.2.3.1. Contractor shall utilize and operate all facilities and devices used in connection with the construction of the Highway and Airports in such a way so as to avoid or minimize air pollution and ice fog.

4.2.3.2. Emissions from equipment, installations, and burning materials shall meet applicable Federal and State air quality standards.

4.2.4. Pesticides, Herbicides, and other Chemicals.

Contractor shall use only non-persistent and immobile types of pesticides, herbicides and other chemicals. Each chemical to be used and its application constraint shall be approved in writing by the State Pipeline Coordinator prior to use.

4.2.5. Sanitation and Waste Disposal.

4.2.5.1. "Waste" means all discarded matter, including but not limited to human waste, trash, garbage, refuse, oil drums, petroleum products, ashes and equipment.

4.2.5.2. All waste generated in construction of the Highway and Airports shall be removed or otherwise disposed of in a manner acceptable to the State Pipeline Coordinator. All applicable standards and guidelines of the Alaska State Department of Environmental Conservation, the United States Public Health Service, the Environmental Protection Agency, and other Federal and State agencies shall be adhered to by Contractor. All incinerators shall meet the requirements of applicable Federal and State laws and regulations and shall be used with maximum precautions to prevent forest and tundra fires. After incineration, material not consumed in the incinerator shall be disposed of in a manner approved in writing by the State Pipeline Coordinator. Portable or permanent waste disposal systems to be used shall be approved in writing by the State Pipeline Coordinator.

4.3. Buffer Strips.

4.3.1. Public Interest Areas.

No construction activity in connection with the Highway or Airports shall be conducted within one-half (½) mile of any officially designated Federal, State or municipal park, wildlife refuge, research natural area, recreation area, recreation site, or any registered National Historic Site or National Landmark, unless such activity is approved in writing by the Federal Authorized Officer as to Federal areas or the State Pipeline Coordinator as to State areas.

4.3.2. Streams.

The Highway clearing limits shall be limited so as to provide three hundred (300) foot minimum buffer strips of undisturbed land along streams unless otherwise approved under 2.4 herein.

4.4. Erosion Control.

4.4.1. Contractor shall conduct all Highway and Airport construction activities so as to avoid or minimize disturbance to vegetation.

4.4.2. The design of the Highway and Airports shall provide for the construction of erosion control facilities that will avoid or minimize erosion.

4.4.3. The erosion control facilities shall be constructed to avoid erosion and to lessen the possibility of forming new drainage channels resulting from Highway or Airport construction activities. The facilities shall be designed and constructed in such a way as to avoid or minimize disturbance to the thermal regime.

4.4.4. Stabilization.

4.4.4.1. Surface materials taken from disturbed areas shall be stockpiled and utilized during restoration unless otherwise approved in writing by the State Pipeline Coordinator as to the Highway and by the Federal Authorized Officer as to the Airports. Stabilization practices, as determined by the needs for specific sites, shall include but shall not be limited to seeding, planting, mulching, and the placement of mat binders, soil binders, rock or gravel blankets, or structures.

4.4.4.2. All disturbed areas shall be left in a stabilized condition satisfactory to the State Pipeline Coordinator as to the Highway and the Federal Authorized Officer as to the Airports. Such satisfaction shall be stated in writing.

4.4.5. Crossings of Streams, Rivers or Flood Plains.

4.4.5.1. Contractor shall prevent or minimize erosion at streams and river crossings and those parts of the Highway or Airports within flood plains.

4.4.5.2. Temporary access over stream banks shall be made through use of fill ramps rather than by cutting through stream banks, unless otherwise approved in writing by the State Pipeline Coordinator.

4.4.5.3. Timing and methods of crossings shall be subject to control and alteration by the State Pipeline Coordinator to protect fish passage and spawning and aquatic resources generally.

4.4.6. Seeding and Planting.

Seeding and planting of disturbed areas shall be conducted as soon as practicable and, if necessary, shall be repeated until vegetation is successful, unless otherwise approved in writing by the State Pipeline Coordinator. All other restoration shall be completed as soon as possible.

4.4.7. Excavated Material

Excavated material not utilized for Highway or Airport construction shall be disposed of in a manner approved in writing by the Federal Authorized Officer, if wasted outside of the facility right-of-way.

4.5. Fish and Wildlife Protection

4.5.1. Passage of Fish

4.5.1.1. Contractor shall provide for uninterrupted movement and safe passage of fish. Any artificial structure or any stream channel change that would cause a blockage of fish shall be provided with a fish passage structure or facility that meets all Federal and State requirements. The proposed design shall be submitted to the State Pipeline Coordinator in accordance with Stipulation 2.4.1.

4.5.1.2. Pump intakes shall be screened to prevent harm to fish.

4.5.1.3. Abandoned water diversion structures shall be removed or filled to prevent trapping or stranding of fish.

4.5.1.4. If material sites are approved adjacent to or in certain lakes, rivers, or streams, the State Pipeline Coordinator, either on his own initiative or at the request of the Federal Authorized Officer may require the Contractor to construct levees, berms, or other suitable means to protect fish and fish passage and to prevent siltation of streams or lakes.

4.5.2. Fish Spawning Beds

4.5.2.1. "Fish Spawning Beds" means the areas where anadromous and resident fish deposit their eggs.

4.5.2.2. Contractor shall avoid channel changes in Fish Spawning Beds designated by the State Pipeline Coordinator; however, where channel changes cannot be avoided in such beds, new channels shall be constructed according to written standards supplied by the State Pipeline Coordinator.

4.5.2.3. Fish Spawning Beds shall be protected from sediment where soil material is expected to be suspended in water as a result of construction activities. Settling basins shall be constructed to intercept silt before it reaches streams or lakes.

4.5.2.4. Contractor shall comply with any special requirements made by the State Pipeline Coordinator for a stream system in order to protect Fish Spawning Beds. Contractor shall repair all damage to Fish Spawning Beds caused by construction of the Highway or Airports.

4.5.3. Zones of Restricted Activties

Contractor's activities in connection with the construction of the Highway or Airports in key fish and wildlife areas may be restricted by the State Pipeline Coordinator during periods of fish and wildlife breeding, nesting, spawning, lambing or calving activity and during major migrations of fish and wildlife. The State Pipeline Coordinator shall provide Contractor written notice of such restrictive action. From time to time, the State Pipeline Coordinator shall furnish Contractor a list of areas where such actions may be required, together with anticipated dates of restriction.

4.6. Material Sites

4.6.1. Acquisition of Materials

4.6.1.1. If Contractor requires materials from the public lands, Contractor shall request the State of Alaska to make application, in accordance with 43 CFR, Part 3621, "Free Use of Mineral Materials." Contractor shall submit a mining plan in accordance with 43 CFR, Part 23. No materials may be removed by Contractor without the written approval of the Federal Authorized Officer.

4.6.1.2. Insofar as possible, use of existing material sites will be authorized in preference to new sites.

4.6.2. Layout of Material Sites

Material site boundaries should be shaped in such a manner as to blend with surrounding natural land patterns. Regardless of the layout of material sites, primary emphasis shall be placed on prevention of soil erosion and damage to vegetation.

4.7. Clearing

4.7.1. Boundaries

Contractor shall identify approved clearing boundaries on the ground prior to beginning clearing operations. All timber and other vegetative material outside clearing boundaries are reserved from cutting and removal with the exception of danger trees or snags designated as such by the State Pipeline Coordinator.

4.7.2. Timber

4.7.2.1. Prior to initiating clearing operations, Contractor shall notify the Federal Authorized Officer of the amount of merchantable timber, if any, which will be cut, removed, or destroyed in the construction of the Highway or Airports, and shall request that the State make separate application for the free use of such timber in accordance with 43 CFR, Part 5510.

4.7.2.2. All trees, snags, or other woody material cut in connection with clearing operations shall be cut so the resulting stumps shall not be higher than six (6) inches measured from the ground on the uphill side.

4.7.2.3. All trees, snags, and other woody material cut in connection with clearing operations shall be felled into the area within the clearing boundaries and away from water courses.

4.7.2.4. Hand clearing shall be used in areas where the State Pipeline Coordinator as to

the Highway and the Federal Authorized Officer as to the Airports, determine that use of heavy equipment would be detrimental to existing conditions.

4.7.2.5. All debris resulting from clearing operations and construction that may block stream flow, delay fish passage, contribute to flood damage, or result in stream bed scour or erosion shall be removed.

4.7.2.6. Logs shall not be skidded or yarded across any stream without the written approval of the State Pipeline Contractor.

4.7.2.7. No log landing shall be located within three hundred (300) feet of any water course, except where impractical, then only with the written approval of the State Pipeline Coordinator.

4.7.2.8. All slash shall be disposed of within the Highway right-of-way or Airport lease unless otherwise directed in writing by the Federal Authorized Officer as to the Airports or the State Pipeline Coordinator as to the Highway.

4.8. Disturbance of Natural Waters

All activities of Contractor in connection with the construction of the Highway or Airports that may create new lakes, drain existing lakes, significantly divert natural drainages, permanently alter stream hydraulics, or disturb significant areas of stream beds are prohibited unless such activities along with necessary mitigation measures are approved in writing by the Federal Authorized Officer as to the Airports and the State Pipeline Coordinator as to the Highway.

4.9. Off Right-of-Way Traffic

Contractor shall not operate mobile ground equipment off the Highway or Airport constructions limits or authorized areas unless approved in writing by the Federal Authorized Officer as to the Airports and the State Pipeline Coordinator as to the Highway, or when necessary to prevent harm to any person.

4.10. Aesthetics

The Federal Authorized Officer or State Pipeline Coordinator may impose such requirements as he deems necessary to protect aesthetic values.

4.11. Restoration

4.11.1. Areas disturbed by Contractor shall be restored by Contractor to the satisfaction of the State Pipeline Coordinator as to the Highway, and the Federal Authorized Officer as to the Airports, as stated in writing.

4.11.2. All cut and fill slopes shall be left in a stable condition.

4.11.3. Materials from the Highway and Airports, haul ramps, berms, dikes, and other earthen structures shall be disposed of as directed by the State Pipeline Coordinator as to the Highway and the Federal Authorized Officer as to the Airport.

4.11.4. Vegetation, overburden, and other materials removed during clearing operations shall be disposed of by Contractor in a manner approved in writing by the State Pipeline Coordinator as to the Highway and the Federal Authorized Officer as to the Airports.

4.11.5. Upon completion of restoration, Contractor immediately shall remove all equipment and supplies from the site.

5. Contractor Stipulations—Technical

The following requirements shall be complied with in design and construction of Highways and Airports.

5.1. Special Standards

5.1.1. All preconstruction, construction, and post-construction operations shall be conducted to minimize permafrost degradation and damage to the environment, and to provide maximum protection to wildlife and human beings.

5.1.2. Temporary bridges shall be located so as to reserve the superior site and alignment for future permanent bridges.

5.1.3. Embankment sections shall be used in preference to excavated sections wherever practicable and, in general, the Highway shall follow terrain features.

5.1.4. Unless otherwise approved by the State Pipeline Coordinator, organic material resulting from clearing operations shall not be incorporated in the road prism, but may be used as a mat overlay below the road prism.

5.2. Permanent Culverts and Bridges

Culverts and bridges shall be designed to accommodate a 50-year flood in accordance with criteria established by the American Association of State Highway Officials and the Federal Highway Administration.

5.3. Erosion

5.3.1. Erosion control procedures shall accommodate and be based on the runoff produced by storm and snow melt conditions having a 50-year occurrence interval. The procedure shall also accommodate effects that result from thawing produced by flowing or ponded water on permafrost terrain.

5.3.2. Slopes of cuts through stream banks shall be designed and constructed to minimize erosion and prevent slides.

5.3.3. Where necessary because of outfall erosion, stilling basins shall be constructed at the outflow end of culverts. To prevent erosion the pool sides shall be established by appropriate methods; e.g., by the use of riprap.

5.4. Slope Stability

Areas subject to mudflows, landslides, mudslides, avalanches, rock falls, and other types of mass movements shall be avoided where practicable in locating the Highway and Airports. Where such avoidance is not practical, the Highway or Airport design, based upon detailed field investigations and analysis, shall provide measures to prevent the occurrence of, or protect the Highway or Airports against the effects of mass movements.

5.5. Construction Operations

5.1.1. All pre-construction and construction activities shall be conducted so as to avoid or minimize thermal and other environmental changes and to provide maximum protection to fish and wildlife and their habitat, and people. All surface modifications shall be planned and executed in such a way that any resulting degradation of permafrost will not jeopardize adjoining structure foundations.

5.5.2. Acceptable plans, procedures and quality controls that ensure compliance with these Stipulations shall be submitted in accordance with Stipulation 2.4.1.

ROUDEBUSH NAMED DEPUTY ADMINISTRATOR OF THE VETERANS' ADMINISTRATION

(Mr. DEVINE asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. DEVINE. Mr. Speaker, our former colleague Richard L. Roudebush was sworn in as Deputy Administrator of the Veterans' Administration and I am honored to submit his remarks on that happy occasion:

Mr. Administrator, guests, friends, and fellow workers of the Veterans' Administration. This is truly one of the proudest moments of my life—made doubly memorable for me by the attendance here of so many dear friends, to witness my oath to the service of this agency and the men and women who have borne her battles.

I pledge myself to you—and to them—to be an activist officer and shirtsleeved soldier in every cause relating to our Nation's veterans that comes before me in the years ahead.

I pledge myself to the purpose of unity and oneness—of resolve—among all groups and individuals concerned with the present and future life of those who have served.

Our administrator has asked me to continue my work in Congressional relations. It is not only a pleasure to do so—I would have been disappointed if he hadn't asked.

I say to my former colleagues from the Hill who are here this morning—and to every Senator and Congressman in this second session of the 93rd—that I am personally aware of the difficult path which you follow—and pledge myself and my staff to assist you in the field of veterans benefits—so you may better serve your constituents.

I pledge to dedicate my best efforts to intelligent, open communications with and through the veterans service organizations—all of whom are represented here in this room.

We may joke with one another—in the spirit of organizational pride—but the proudest thing all of our service organizations have going for them—is their commonality of cause in caring for the ex-G.I.—from the time he's mustered out until the time he's laid to rest. I don't think this Nation can afford to be without any one of them. I plan to continue that fervent belief—the will—to serve with each and all of you to that end.

Being a life member of each of these fine commands—(with the exception of the World War I vets, Commander Fink)—I plan to hang my certificates in a straight horizontal line, in my office, and then rotate them every once in a while just to prove the point.

My call for unity—among those of us who are charged with this great trust—is based on the very practical notion—that if we conserve our considerable strength—by not hassling each other over nit-picking points—we can pour more of our combined energy into the only real mission that summoned each of us to this work—to begin with.

I say our unity is necessary for all of us—so that each of us can deliver an extra dimension of service—and service is the name of the game.

A personal note of sadness today, is the fact that my beloved Marge (Mrs. Roudebush)—is not here.

It's a school day for young Roudy—back in Noblesville—and in order for them to attend this ceremony, he would have to have missed a couple of days.

Instead they were here for my birthday last Friday and did stay over the weekend. And my appointment to Deputy Administrator was announced on my birthday—in a pretty novel way—I thought.

I had a meeting with the White House staff at 1:30 p.m., following my meeting with Don Johnson in which he confirmed my nomination.

Obviously, somebody over here—named Johnson—tipped them off that I had achieved the age of 56 that day—because as I strode in the room in my typical—plowing-through-center cadence—the entire staff stood stiffly at attention and sang: "Happy Birthday"—led by the melodious—but slightly off-key voices of Bill Timmons and Max Friedersdorf.

And it was, indeed, a very happy birthday.

This ceremony this morning—and your willingness to be here to help mark the occasion—makes this the longest and happiest birthday I've ever known.

And when you consider how many birthdays I've really had—that's a powerful statement.

Thank you—my good and trusted friends—for being here to honor me.

WASHINGTON'S FAREWELL ADDRESS

Mr. O'NEILL. Mr. Speaker, I ask unanimous consent that on Monday, February 18, 1974, George Washington's Farewell Address may be read by a Member to be designated by the Speaker.

The SPEAKER. Is there objection to

the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER. Pursuant to the special order agreed to today, the Chair designates the gentleman from Mississippi, Mr. MONTGOMERY, to read George Washington's Farewell Address immediately following the approval of the Journal on February 18, 1974.

LOOKING SOUTH

(Mr. PEPPER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. PEPPER. Mr. Speaker, my distinguished colleague, the Honorable DANTE B. FASCELL, as chairman of the House Subcommittee on Inter-American Affairs, has done an outstanding job for the Foreign Affairs Committee, for the House of Representatives, and for our country. He has kept in close touch with developments from time to time in Latin America. He has made many wise and farsighted recommendations as to the course our country should pursue in relation to our neighbors to the south. He is known and respected throughout Latin America as one of the most knowledgeable leaders of our country in respect to Latin America—its hopes, its dreams, and its problems.

On Sunday, December 16, Mr. FASCELL wrote a very able article for the Miami Herald entitled "Looking South: How Should We Treat Our Latin Neighbors?" with a subtitle "Let's Halt Deterioration in Relations."

All of our colleagues and fellow countrymen will profit greatly by Mr. FASCELL's able article. It is, therefore, with particular pleasure that I include Mr. FASCELL's excellent article in the body of the RECORD immediately following my remarks:

LOOKING SOUTH: HOW SHOULD WE TREAT OUR LATIN NEIGHBORS?—LET'S HALT DETERIORATION IN RELATIONS

(By Representative DANTE B. FASCELL)

The nature of Latin American and Caribbean relations with the United States are of vital national concern and of particular importance to Greater Miami and South Florida.

Americans have over 12 billion dollars invested in Latin American enterprises. More than 30 major U.S. companies maintain their Latin American division headquarters in Coral Gables and Greater Miami. This economic enterprise aids Latin American development and provides jobs and money at home.

The U.S. also needs important materials and foodstuffs from Latin America. Oil, copper, and other strategic material; coffee, sugar, meat and other agricultural products and some manufactured goods.

Latin America has the potential of being the great new consumer market of the world. The U.S. must be competitive in those markets. Already we have seen that many nations, the Japanese, Germans, French, and others have aggressively sought and obtained Latin American trade.

Economic relationship is important and mutually beneficial. It is in our own interest to encourage it and not discourage it.

Latin America's strategic importance to the United States is just as clear. The Cuban missile crisis did not end U.S. concern on that issue. Even with the new spirit of detente, the Russians have not lessened their interest in Cuba as a political satellite and a very important military base. As recent hearings before the Subcommittee on Inter-American Affairs clearly indicate, the Russians are still interested in probing and showing that the Caribbean is no longer the sole province of the Western Hemisphere. There is also U.S. interest and concern in the Panama Canal and Guantanamo Naval Base.

The export of violent revolution either from abroad or from Cuba does show evidence of decreasing but the use of violence as a method of economic, political and social change has not been abandoned and the violent struggle in many Latin countries still goes on. It is unrealistic to think that the United States can and should ignore all these matters.

The importance of Latin America and the Caribbean to the United States politically, socially and economically must be admitted, understood, recognized and dealt with accordingly not only in Greater Miami but at the highest levels of our government.

Until recently U.S.-Latin-Caribbean relations were going downhill. There has been a lack of any coherent and meaningful U.S. policy. These relations have been on the back burner.

Studies by the Subcommittee on Inter-American Affairs, among others, have noted and warned of the strong trend in Latin America toward economic nationalism, a new militarism, an independent foreign policy and a determination to be on an equal basis not only with the United States but other major powers of the world.

Growth of economic nationalism in Latin America threatens polarization of the Hemisphere. The U.S. cannot be insensitive to the need for creative response to a growing confidence and a sense of identity which we incidentally deliberately tried to achieve, and I believe helped to do so, through the Alliance for Progress.

As chairman of the Subcommittee on Inter-American Affairs I have carefully watched events in Latin America. From that vantage point several other key elements stand out:

The growing incapacity of democratic institutions as we in the U.S. understand them to deal effectively with the political and economic problems of Latin America; the definite shift there in the political ideology toward centralism, statism, and militarism; the emergence of new groups who are and continue to challenge the status quo and the old order.

The new intellectuals, the young Catholic clergy, the technocrats and the new military are in the forefront of change and molding the future of their countries. There is a growing awareness and comprehension of the needs of the masses, the common man, and the average citizen. Latin American military governments are showing signs of adapting to the need of the times.

Perhaps the most critical element is that the great mass of the people in Latin America and the Caribbean still remain outside of any meaningful involvement or benefit from the economic and political life of their respective countries, and have not been allowed to participate in the development of any responsible, acceptable and effective leadership.

This explosive situation has been compounded by another factor, the rapid population growth. This has negated most of the economic gains of the Alliance and of each country's efforts.

This administration, coming into office at the time when recognition of these elements was paramount as a basis for new policies called for in their own studies, somewhat understandably resorted to rhetoric. The term, "new mature partnership", was substituted for substantive policy. Thus until now U.S. Latin American relationships were going downhill.

We in the United States have held ourselves up to Latin Americans as an example, but increasingly the Latins have felt that our way is not necessarily the best for them. Our common goals, aims and needs remain the same, but the framework within which we can achieve these continues to be in a constant change with radical shifts left and right taking place.

It is now clear that the theories of classical economists with respect to development have not worked—they have failed in large measure in improving the lot of men and women in the developing world—and this means we must join them in seeking new and more viable solutions.

The interface between our private capital economy with high consumption and economies necessarily organized in different ways will be a constant source of tension. Both U.S. business and the U.S. government are going to have to develop new ways of maintaining our society the way we want it without imposing our values and way of life on others who must have and demand the freedom to develop as they wish.

I am confident we can halt the downhill drift in Latin American-U.S. relations.

The Congress will take up soon in the House of Representatives, the new trade bill. It contains the President's promised assistance to Latin America for preferential trade treatment.

Our new Secretary of State, Dr. Henry Kissinger, has issued an invitation to the Latins, which they have eagerly accepted, for a new and meaningful joinder of dialogue with the United States.

Many of us in the Congress who believe that the same old foreign aid approaches won't work, took the lead in getting the Congress to adopt a change in the structure of U.S. bilateral assistance to Latin America. This new approach would focus aid on acute problem areas and encourage countries to allow participation of their poorest people in the development of their country. This means stressing real social change in areas of nutrition, health and education for the poorest people.

It was to energize this spirit that I sought and Congress approved several years ago, the creation and the establishment of the Inter-American Foundation—a government corporation—the majority of whose board are nongovernmental. The foundation provides U.S. financial assistance on a highly selective basis to those social programs conceived and operated by indigenous groups in Latin countries. We thus help innovative programs and those which show the best promise for helping the great masses of people in Latin and Caribbean countries. After all, it is their needs and desires which will shape the future of those areas and the relationship with the United States.

It is too soon to say that our problems with Latin America and the Caribbean are diminishing. They are not. They are likely to continue and increase. But the U.S. does need a new commitment to improve our relations in this Hemisphere.

For care and concern about what happens.

To genuinely understand the new forces in Latin America and the Caribbean.

To exercise caution and restraint when reacting to forces difficult to understand.

To respond in creative and constructive ways to the legitimate needs and concerns of the other peoples of this hemisphere.

To use our own resources to adjust here at home to the changed circumstances of these other countries.

A new spirit of U.S. commitment in the

hemisphere will not eliminate our problems but it will and can provide an atmosphere in which they cease to be the controlling factors in our relations and become instead steps in the process of building a mutually creative framework for cooperation and benefit.

RECESS

The SPEAKER. The Chair declares a recess until approximately 8:40 o'clock p.m.

Accordingly (at 2 o'clock and 52 minutes p.m.), the House stood in recess subject to the call of the Chair.

AFTER RECESS

The recess having expired, the House was called to order by the Speaker at 8 o'clock and 43 minutes p.m.

JOINT SESSION OF THE HOUSE AND SENATE HELD PURSUANT TO THE PROVISIONS OF HOUSE CONCURRENT RESOLUTION 413 TO HEAR AN ADDRESS BY THE PRESIDENT OF THE UNITED STATES

The SPEAKER of the House presided.

The Doorkeeper, the Honorable William M. Miller, announced the Vice President and Members of the U.S. Senate who entered the Hall of the House of Representatives, the Vice President taking the chair at the right of the Speaker, and Members of the Senate the seats reserved for them.

The SPEAKER. The Chair appoints as members of the committee on the part of the House to escort the President of the United States into the Chamber the gentleman from Massachusetts, Mr. O'NEILL, the gentleman from California, Mr. MCFALL, the gentleman from Texas, Mr. TEAGUE, the gentleman from Arizona, Mr. RHODES, and the gentleman from Illinois, Mr. ARENDS.

The VICE PRESIDENT. Pursuant to the order of the Senate, the following Senators are appointed to escort the President of the United States into the House Chamber: the Senator from Montana, Mr. MANSFIELD, the Senator from Mississippi, Mr. EASTLAND, the Senator from West Virginia, Mr. BYRD, the Senator from Pennsylvania, Mr. SCOTT, the Senator from Michigan, Mr. GRIFFIN, and the Senator from North Dakota, Mr. YOUNG.

The Doorkeeper announced the ambassadors, ministers, and chargés d'affaires of foreign governments.

The ambassadors, ministers, and chargés d'affaires of foreign governments entered the Hall of the House of Representatives and took the seats reserved for them.

The Doorkeeper announced the acting Chief Justice of the United States and the Associate Justices of the Supreme Court.

The acting Chief Justice of the United States and the Associate Justices of the Supreme Court entered the Hall of the House of Representatives and took the seats reserved for them in front of the Speaker's rostrum.

The Doorkeeper announced the Cabinet of the President of the United States.

The members of the Cabinet of the President of the United States entered the Hall of the House of Representatives and took the seats reserved for them in front of the Speaker's rostrum.

At 9 o'clock and 3 minutes p.m., the Doorkeeper announced the President of the United States.

The President of the United States, escorted by the committee of Senators and Representatives, entered the Hall of the House of Representatives, and stood at the Clerk's desk.

[Applause, the Members rising.]

The SPEAKER. My colleagues of the Congress, I have the distinct privilege and the high personal honor of presenting to you the President of the United States.

[Applause, the Members rising.]

THE STATE OF THE UNION—ADDRESS BY THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 93–206)

The PRESIDENT. Mr. Speaker, Mr. President, my colleagues in the Congress, our distinguished guests, and my fellow Americans:

We meet here tonight at a time of great challenge and great opportunities for America. We meet at a time when we face great problems at home and abroad that will test the strength of our fiber as a nation. But we also meet at a time when that fiber has been tested, and it has proved strong.

America is a great and good land, and we are a great and good land because we are a strong, free, and creative people, and because America is the single greatest force for peace anywhere in the world.

Today, as always in our history, we can base our confidence on what the American people will achieve in the future on the record of what the American people have achieved in the past. Tonight, for the first time in 12 years, a President of the United States can report to the Congress on the state of a Union at peace with every nation of the world.

Because of this, in the 22,000-word message on the state of the Union that I have just handed to the Speaker of the House and the President of the Senate, I have been able to deal primarily with the problems of peace, with what we can do here at home in America for the American people, rather than with the problems of war. The measures I have outlined in this message set an agenda for truly significant progress for this Nation and the world in 1974.

Before we chart where we are going, let us see how far we have come. It was five years ago on the steps of this Capitol that I took the oath of office as your President. In those five years, because of the initiatives undertaken by this administration, the world has changed—America has changed. As a result of those changes America is safer today, more prosperous today, with greater opportunity for more of its people than ever before in our history.

Five years ago America was at war in Southeast Asia. We were locked in confrontation with the Soviet Union. We were in hostile isolation from a quarter of the world's people who lived in mainland China. Five years ago our cities were burning and besieged. Five years ago our college campuses were a battleground. Five years ago crime was increasing at a rate that struck fear across the Nation. Five years ago the spiraling rise in drug addiction was threatening human and social tragedy of massive proportion, and there was no program to deal with it.

Five years ago, as young Americans had done for a generation before that, America's youth still lived under the shadow of the military draft.

Five years ago there was no national program to preserve our environment. Day by day our air was getting dirtier, our water was getting more foul, and five years ago American agriculture was practically a depressed industry with a hundred thousand farm families abandoning the farm every year.

As we look at America today we find ourselves challenged by new problems, but we also find a record of progress to confound the professional cryers of doom and prophets of despair.

We met the challenges we faced five years ago, and we will be equally confident of meeting those that we face today.

Let us see for a moment how we have met them. After more than ten years of military involvement, all of our troops have returned from Southeast Asia and they have returned with honor.

And we can be proud of the fact that our courageous prisoners of war, for whom a dinner was held in Washington tonight, came home with their heads high and on their feet, and not on their knees.

In our relations with the Soviet Union we have turned away from a policy of confrontation to one of negotiation. For the first time since World War II the world's two strongest powers are working together toward peace in the world. With the People's Republic of China, after a generation of hostile isolation we have begun a period of peaceful exchange and expanding trade. Peace has returned to our cities, to our campuses. The 17-year rise in crime has been stopped. We can confidently say today that we are finally beginning to win the war against crime. Right here in this Nation's Capital, which a few years ago was threatened to become the crime capital of the world, the rate in crime has been cut in half.

A massive campaign against drug abuse has been organized. The rate of new heroin addiction, the most vicious threat of all, is decreasing rather than increasing.

For the first time in a generation no young Americans are being drafted into the armed services of the United States.

And for the first time ever we have organized a massive national effort to protect the environment. Our air is getting cleaner. Our water is getting purer.

And our agriculture, which was depressed, is prospering. Farm income is up 70 percent. Farm production is setting all-time records. And the billions of dollars the taxpayers were paying in subsidies has been cut to nearly zero.

Overall Americans are living more abundantly than ever before today. More than two and a half million new jobs were created in the past year alone. That is the biggest percentage increase in nearly 20 years. People are earning more. What they earn buys more, more than ever before in history. In the past 5 years the average American's real spendable income, that is, what you really can buy with your income even after allowing for taxes and inflation, has increased by 16 percent. Despite this record of achievement as we turn to the year ahead we hear once again the familiar voices of the perennial prophets of gloom, telling us now that because of the need to fight inflation, because of the energy shortage, America may be headed for a recession. Well, let me speak to that issue head on. There will be no recession in the United States of America.

Primarily due to our energy crisis our economy is passing through a difficult period. But I pledge to you tonight that the full powers of this Government will be used to keep America's economy producing and to protect the jobs of America's workers.

We are engaged in the long and hard fight against inflation. There have been and there will be in the future ups and downs in that fight.

But if this Congress cooperates in our efforts to hold down the cost of Government we shall win our fight to hold down the cost of living for the American people.

As we look back over our history the years that stand out as the ones of signal achievement are those in which the administration and the Congress, whether of one party or the other, working together had the wisdom and the foresight to select those particular initiatives for which the Nation was ready and the moment was ripe and in which they seized the moment and acted.

Looking at the year 1974 which lies before us, there are ten key areas in which landmark accomplishments are possible this year in America.

If we make these our national agenda, this is what we will achieve in 1974. We will break the back of the energy crisis. We will lay the foundation for our future capacity to meet America's energy needs from America's own resources, and we will take another giant stride toward lasting peace in the world, not only by continuing our policy of negotiation rather than confrontation where the great powers are concerned, but also by helping toward the achievement of a just and lasting settlement in the Middle East.

We will check the rise in prices without administering the harsh medicine of recession and we will move the economy into a steady period of growth at a sustainable level.

We will establish a new system that makes high quality health care available to every American in a dignified manner and at a price he can afford.

We will make our States and localities more responsive to the needs of their own citizens. We will make a crucial breakthrough toward better transportation in our towns and in our cities across America.

We will reform our system of Federal aid to education to provide it when it is needed, where it is needed, so that it may do the most for those who need it the most.

We will make a historic beginning on the task of defining and protecting the right of personal privacy for every American and we will start on a new road toward reform of a welfare system that bleeds the taxpayer, corrodes the community, and demeans those that it is intended to assist.

Together with the other nations of the world we will establish the economic framework within which Americans will share more fully in an expanding worldwide trade and prosperity in the years ahead, with more open access to both markets and supplies.

In all of the 186 state of the Union messages delivered from this place in our history, this is the first in which the one priority, the first priority is energy.

Let me begin by reporting a new development which I know will be welcome news to every American. As you know, we have committed ourselves to an active role in helping to achieve a just and durable peace in the Middle East on the basis of full implementation of Security Council Resolutions 242 and 338.

The first step in the process is the disengagement of Egyptian and Israeli forces which is now taking place. Because of this hopeful development, I can announce tonight that I have been assured through my personal contacts with friendly leaders in the Middle Eastern area that an urgent meeting will be called in the immediate future to discuss the lifting of the oil embargo.

Now this is an encouraging sign. However, it should be clearly understood by our friends in the Middle East that the United States will not be coerced on this issue. Regardless of the outcome of this meeting, the cooperation of the American people in our energy conservation program has already gone a long way towards achieving a goal to which I am deeply dedicated. Let us do everything we can to avoid gasoline rationing in the United States of America.

Last week I sent to the Congress a comprehensive special message setting forth our energy situation, recommending the legislative measures which are necessary to a program for meeting our needs. If the embargo is lifted, this will ease the crisis but it will not mean an end to the energy shortage in America. Voluntary conservation will continue to be necessary.

Let me take this occasion to pay tribute once again to the splendid spirit of cooperation the American people have shown which has made possible our success in meeting this emergency up to this time.

The new legislation I have requested will also remain necessary. Therefore I urge again that the energy measures that I have proposed be made the first priority of this session of the Congress. These measures will require the oil companies and other energy producers to provide the public with the necessary information on their supplies. They will prevent the injustices of windfall profits for a few as a result of the sacrifices of the millions of Americans.

They will give us the organization, the incentives, the authorities needed to deal with the short-term emergency and to move toward meeting our long-term needs. Just as 1970 was the year in which we began a full-scale effort to protect the environment, 1974 must be the year in which we organize a full-scale effort to provide for our energy needs, not only in this decade but through the 21st century.

As we move toward the celebration 2 years from now, of the 200th anniversary of this Nation's independence, let us press vigorously on toward the goal that I announced last November for Project Independence. Let this be our national goal. At the end of this decade in the year 1980 the United States will not be dependent on any other country for the energy we need to provide our jobs, to heat our homes and to keep our transportation moving.

To indicate the size of the Government commitment, to spur energy research and development we plan to spend $10 billion in Federal funds over the next 5 years. That is an enormous amount. But during the same 5 years private enterprise will be investing as much as $200 billion and in 10 years $500 billion to develop the new resources, the new technology, the new capacity America will require for its energy needs in the 1980's.

That is just a measure of the magnitude of the project we are undertaking. But America performs best when called to its biggest tasks. It can truly be said that only in America could a task so tremendous be achieved so quickly and achieved not by regimentation but through the effort and ingenuity of a free people working in a free system.

Turning now to the rest of the agenda for 1974, the time is at hand this year to bring comprehensive, high-quality health care within the reach of every American.

I shall propose a sweeping new program that will assure comprehensive health insurance protection to millions of Americans who cannot now obtain it or afford it, with vastly improved protection against catastrophic illnesses. This will be a plan that maintains the high standards of quality in America's health care and it will not require additional taxes.

Now, I recognize that other plans have been put forward that would cost $80 billion or even $100 billion and that would put our whole health care system under the heavy hand of the Federal Government. This is the wrong approach. This has been tried abroad and it has failed. It is not the way we do things here in America. This kind of plan would threaten the quality of care provided by our whole health care system. The right way is one that builds on the strengths of the present system and one that does not destroy those strengths; one based on partnership, not paternalism.

Most important of all, let us keep this

as the guiding principle of our health program. Government has a great role to play but we must always make sure that our doctors will be working for their patients and not for the Federal Government.

Many of you will recall that in my state of the Union address 3 years ago I commented that most Americans today are simply fed up with government at all levels and I recommended a sweeping set of proposals to revitalize State and local governments to make them more responsive to the people they serve. I can report to you today that as a result of revenue sharing passed by the Congress and other measures we have made progress toward that goal. After 40 years of moving power from the States and the communities to Washington, D.C., we have begun moving power back from Washington to the States and communities and, most important, to the people of America.

In this session of the Congress I believe we are near the breakthrough point on efforts which I have suggested, proposals to let people themselves make their own decisions for their own communities, and particularly on those to provide broad new flexibility in Federal aid for community development, for economic development, and for education. I look forward to working with the Congress, with members of both parties, in resolving whatever remaining differences we have in this legislation so that we can make available nearly five and a half billion dollars to our States and localities to use not for what a Federal bureaucrat may want, but for what their own people in those communities want. The decision should be theirs.

I think all of us recognize that the energy crisis has given new urgency to the need to improve public transportation, not only in our cities but in rural areas as well. The program I have proposed this year will give communities not only more money, but also more freedom to balance their own transportation needs. It will mark the strongest Federal commitment ever to the improvement of mass transit as an essential element of the improvement of life in our towns and cities.

One goal on which all Americans agree is that our children should have the very best education this great nation can provide.

In a special message last week, I recommended a number of important new measures that can make 1974 a year of truly significant advances for our schools and for the children they serve. If the Congress will act on these proposals, more flexible funding will enable each Federal dollar to meet better the particular need of each particular school district. Advance funding will give school authorities a chance to make each year's plans, knowing ahead of time what Federal funds they are going to receive. Special targeting will give special help to the truly disadvantaged among our people. College students, faced with rising costs for their education, will be able to draw on an expanded program of loans and grants. These advances are a needed investment in America's most precious resource—our next generation. I urge the Congress to act on this legislation in 1974.

One measure of a truly free society is the vigor with which it protects the liberties of its individual citizens. As technology has advanced in America, it has increasingly encroached on one of those liberties that I term the right of personal privacy. Modern information systems, data banks, credit records, mailing list abuses, electronic snooping, the collection of personal data for one purpose that may be used for another—all these have left millions of Americans deeply concerned about the privacy they cherish. The time has come, therefore, for a major initiative to define the nature and extent of the basic rights of privacy and to erect new safeguards to insure that those rights are respected.

I shall launch such an effort this year at the highest levels of the administration, and I look forward again to working with this Congress in establishing a new set of standards that respects the legitimate needs of society and that also recognizes personal privacy as a cardinal principle of American liberty.

Many of those in this Chamber tonight will recall that it was three years ago that I termed the Nation's welfare system a monstrous, consuming outrage—an outrage against the community, against the taxpayer, and particularly against the children that it is supposed to help. That system is still an outrage. By improving its administration, we have been able to reduce some of the abuses. As a result, last year for the first time in 18 years, there has been a halt in the growth of the welfare case load. But as a system, our welfare program still needs reform as urgently today as it did when I first proposed in 1969 that we completely replace it with a different system.

In these final 3 years of my administration I urge the Congress to join me in mounting a major new effort to replace the discredited present welfare system with one that works, one that is fair to those who need help or cannot help themselves, fair to the community, and fair to the taxpayer—and let us have as our goal that there will be no government program which makes it more profitable to go on welfare than to go to work.

I recognize that in the debates that have taken place within the Congress over the past three years on this program, we cannot expect enactment overnight of a new reform, but I do propose the Congress and the administration together make this the year in which we discuss, debate, and shape such a reform so that it can be enacted as quickly as possible.

America's own prosperity in the years ahead depends on our sharing fully and equitably in an expanding world prosperity. Historic negotiations will take place this year that will enable us to insure fair treatment in international markets for American workers, American farmers, American investors, and American consumers. It is vital that the authorities contained in the trade bill I submitted to the Congress be enacted so that the United States can negotiate flexibly and vigorously on behalf of American interests.

These negotiations can usher in a new era of international trade that not only increases the prosperity of all nations, but also strengthens the peace among all nations.

In the past 5 years we have made more progress toward a lasting structure of peace in the world than in any comparable time in the Nation's history. We could not have made that progress if we had not maintained the military strength of America.

Thomas Jefferson once observed that, "The price of liberty is eternal vigilance." By the same token and for the same reason, in today's world that price of peace is a strong defense, as far as the United States is concerned.

In the past 5 years we have steadily reduced the burden of national defense in the share of the budget, bringing it down from 44 percent in 1969 to 29 percent in the current year. We have cut our military manpower over the past 5 years by more than a third—from 3.5 million to 2.2 million. In the coming year, however, increased expenditures will be needed. They will be needed to assure the continued readiness of our military forces, to preserve present force levels in the face of rising costs, and to give us the military strength we must have if our security is to be maintained, and if our initiatives for peace are to succeed.

The question is not whether we can afford to maintain the necessary strength of our defense; the question is whether we can afford not to maintain it—and the answer to that question is "no." We must never allow America to become the second strongest Nation in the world.

I do not say this with any sense of belligerence, because I recognize the fact that is recognized around the world: America's military strength has always been maintained to keep the peace—never to break it. It has always been used to defend freedom—never to destroy it. The world's peace, as well as our own, depends on our remaining as strong as we need to be, as long as we need to be.

In this year 1974 we will be negotiating with the Soviet Union to place further limits on strategic nuclear arms. Together with our allies, we will be negotiating with the nations of the Warsaw Pact on mutual and balanced reduction of forces in Europe, and we will continue our efforts to promote peaceful economic development in Latin America, in Africa and in Asia.

We will press for full compliance with the peace accords that brought an end to American fighting in Indochina, including particularly the provision that promised the fullest possible accounting for those Americans who are missing in action.

And having in mind the energy crisis to which I have referred earlier, we will be working with the other nations of the world toward agreeing on means by which oil supplies can be assured at reasonable prices on a stable basis in a fair way to the consuming and producing nations alike.

All these are steps toward a future in which the world's peace and prosperity, and ours as well, as a result, are made more secure.

Throughout the 5 years that I have served as your President I have had one overriding aim. And that was to establish a new structure of peace in the world that can free future generations of the scourge of war. I can understand that others may have different priorities. This has been and this will remain my first priority, and the chief legacy I hope to leave in the 8 years of my Presidency.

This does not mean that we shall not have other priorities, because as we strengthen the peace we must also continue each year the steady strengthening of our society here at home. Our conscience requires it, our interests require it, and we must insist upon it. As we create more jobs, as we build a better health care system, as we improve our education, as we develop new sources of energy, as we provide more abundantly for the elderly and the poor, as we strengthen the system of private enterprise that produces our prosperity, as we do all of this and even more, we solidify those essential bonds that hold us together as a Nation. Even more importantly, we advance what in the final analysis government in America is all about.

What it is all about is more freedom, more security, a better life for each one of the 211 million people that live in this land. We cannot afford to neglect progress at home while pursuing peace abroad. But neither can we afford to neglect peace abroad while pursuing progress at home. With a stable peace, all is possible. But without peace, nothing is possible.

In the written message that I have just delivered to the Speaker and to the President of the Senate, I commented that one of the continuing challenges facing us in the legislative process is that of the timing and pacing of our Nation, selecting each year among many worthy projects those that are ripe for action at that time. What is true in terms of our domestic initiatives is true also in the world. This period we now are in in the world—and I say this as one who has seen so much of the world, not only in these past 5 years, but going back over many years—we are in a period which presents a juncture of historic forces unique in this century. They provide an opportunity we may never have again to create a structure of peace solid enough to last a lifetime and more. Not just peace in our time, but peace in our children's time as well. It is on the way we respond to this opportunity more than anything else that history will judge whether we in America have met our responsibility, and I am confident we will meet that great historic responsibility which is ours today.

It was 27 years ago that John F. Kennedy and I sat in this Chamber as freshmen Congressmen, hearing our first state of the Union address delivered by Harry Truman. I know from my talks with him as members of the Labor Committee on which we both served, neither of us then even dreamed that either one or both might eventually be standing in this place that I stand in now and that he once stood in before me.

It may well be that one of the freshmen Members of the 93d Congress, one of you out there, will deliver his own state of the Union message 27 years from now, in the year 2001.

Well, whichever one it is, I want you to be able to look back with pride and to say that your first years here were great years and to recall you were here in this 93d Congress when America ended its longest war and began its longest peace.

Mr. Speaker, Mr. President, my distinguished colleagues, and our guests, I should like to add a personal word with regard to an issue that has been of great concern to all Americans over the past year. I refer, of course, to the investigations of the so-called Watergate affair. As you know, I have provided to the Special Prosecutor voluntarily a great deal of material. I believe that I have provided all of the material that he needs to conclude his investigations and to proceed to prosecute the guilty and to clear the innocent.

I believe the time has come to bring that investigation and the other investigations of this matter to an end. One year of Watergate is enough. And the time has come, my colleagues, for not only the Executive, the President, but the Members of Congress, for all of us to join together in devoting our full energies to these great issues that I have discussed tonight which involve the welfare of all of the American people in so many different ways as well as the peace of the world.

I recognize that the House Judiciary Committee has a special responsibility in this area, and I want to indicate on this occasion that I will cooperate with the Judiciary Committee in its investigation. I will cooperate with it so that it can conclude its investigation, make its decision, and I will cooperate in any way that I consider consistent with my responsibilities to the Office of the Presidency of the United States.

There is only one limitation. I will follow the precedent that has been followed by, and defended by every President from George Washington to Lyndon B. Johnson of never doing anything that weakens the Office of the President of the United States or impairs the ability of the Presidents of the future to make the great decisions that are so essential to this Nation and to the world.

Another point I should like to make very briefly: Like every Member of the House and Senate assembled here tonight, I was elected to the office that I hold. And like every Member of the House and Senate, when I was elected to that office I knew that I was elected for the purpose of doing a job and doing it as well as I possibly can. And I want you to know that I have no intention whatever of ever walking away from the job that the people elected me to do for the people of the United States.

Needless to say, it would be an understatement if I were not to admit that the year 1973 was not a very easy year for me personally or for my family, and, as I have already indicated, the year 1974 presents very grave and serious problems, as very grave and serious opportunities are also presented. But, my colleagues, this I believe: With the help of God who has blessed this land so richly, with the cooperation of the Congress, and with the support of the American people, we can and we will make the year 1974 a year of unprecedented progress toward our goal of building a structure of lasting peace in the world and a new prosperity without war in the United States of America.

[Applause, the Members rising.]

The state of the Union message, referred to by the President, and submitted to the Congress, is, in its official text, as follows:

To the Congress of the United States:

We enter 1974 not at the beginning of an historical cycle, but in the middle of one. Beginnings have been made in many vital areas, beginnings which we now must build upon. New needs have arisen which we are in the process of addressing. Opportunities are coalescing which give us a chance to make historic progress toward a stable peace and expanding prosperity.

In looking at the agenda for 1974, we cannot consider the work of this or of any one year in isolation. What we select as our tasks in 1974 must build on the work of the years before, and anticipate needs of those ahead. Indeed, one of the continuing challenges facing us in the legislative process is that of the timing and pacing of our initiatives.

It would be as false to pretend that we could do—or afford to do—everything at once, as it would be to maintain that we can do nothing. Therefore, we must strive to maintain steady progress, selecting each year among many worthy projects those that are ripe for action at that time, and that can be accommodated within the constraints of our budget—but pressing to ensure that the most that can be done is done.

In discussing my legislative recommendations for this Congressional session, therefore, I shall do so in the context of the advances that have already been made, the problems that remain, and the special opportunities we have in 1974 to make further progress.

I have started with certain basic premises:

—The basic tax burden on the American taxpayer should not be increased.

—Our new initiatives, therefore, should be scaled to what can prudently be spent given the level of revenues that would be generated by the existing tax structure at full utilization of our resources.

—Increases in Federal spending should be kept to a minimum, but the budget should be flexible enough to be used, if necessary, to maintain jobs and prosperity.

—It is essential that we break the old habit of regarding any Federal program, once established, as permanent; we must learn to scrap old programs that are no longer effective or needed in favor of new ones that are. This is the only way we can afford to do what must be done.

Within these guidelines, there are a number of major new initiatives which are ripe for action in 1974—several of which can be milestones on our march to a life of greater freedom, greater opportunity and greater prosperity for all.

In particular, 1974 can be the year in which:

—First, we not only break the back of the energy crisis, but also, through Project Independence, lay the foundation for our future capacity to meet America's energy needs from America's own resources—at reasonable prices and with adequate environmental protection.

—Second, we take another giant stride toward lasting peace in the world—not only by continuing our policy of negotiation rather than confrontation where the great powers are concerned, but also by helping toward the achievement of a just and lasting settlement in the Middle East.

—Third, we will check the rise in prices, without administering the harsh medicine of recession, and move the economy into a period of steady growth at a sustainable level.

—Fourth, we establish a new system of comprehensive health insurance that makes high quality health care available to every American in a dignified manner and at a price he or she can afford.

—Fifth, we continue to build a new era of achievement and responsiveness in State and local government, by cutting the strings of too tight Federal control that have bound the hands of State and local officials in community and economic development programs.

—Sixth, we make a crucial breakthrough toward better transportation by strengthening the ability of local communities to deal with their transportation problems.

—Seventh, we reform our system of Federal aid to education to provide it when it is needed, where it is needed, and so that it will do the most for those who need it most.

—Eighth, we make an historic beginning on the task of defining and protecting the right of personal privacy.

—Ninth, we start on a new road toward reform of a welfare system that bleeds the taxpayer, corrodes the community and demeans those it is meant to assist.

—And tenth, together with the other nations of the world, we establish the economic framework within which Americans will share more fully in an expanding world trade and prosperity in the years ahead, with more open access to both markets and supplies.

MEETING OUR ENERGY NEEDS

At the start of this Congressional session, the number one legislative concern must be the energy crisis.

The cooperative efforts of the American people, together with measures already taken by the Administration, have significantly reduced the immediate impact of the energy crisis. There has been some economic dislocation and some individual hardships, but these have been minimized by our policy of encouraging broad conservation measures and allocating scarce energy resources so as to do the least possible harm to jobs and the economy. The object has been to keep our farms and factories producing, to keep our workers on the job, and to keep our goods and services flowing, even if this means that we must live and work in somewhat less comfortable surroundings and drive fewer miles at slower speeds.

Even with the full cooperation of most Americans, however, we will still face real challenges—and genuine shortages—in the months and years immediately ahead. To meet these challenges, we must change our patterns of energy consumption and production, we must press forward with the development of reliable new energy sources, and we must adjust to the fact that the age of unlimited supplies of cheap energy is ended.

The immediate energy crisis began with the oil embargo imposed in the Middle East last fall. But the embargo only hastened a shortage that was already anticipated. For a number of years our fuel consumption had been climbing while our production of domestic energy supplies declined. We became more and more heavily dependent on oil imports and, consequently, more vulnerable to any interruption or reduction in those imports, as well as to sudden increases in foreign prices. Today, we have an interruption in supplies and we face sharply increased prices for those supplies when they are restored.

Irrespective of the possibility of restoring the flow of Middle East oil, we must act now to ensure that we are never again dependent on foreign sources of supply for our energy needs. We must continue to slow the rise in our rate of consumption, and we must sharply increase our domestic production.

The effects of energy conservation can be felt at once. Already the responsiveness of the American people to the recent crisis has proved to be the major factor in helping to avoid the serious consequences that the winter might have brought. That conservation must continue.

The required increase in domestic supplies cannot be achieved so rapidly. It will involve the development of entirely new sources of energy as well as the expanded development of oil and coal resources; it will require a significant expansion of our research and development efforts; it will require a shift from the use of scarce fuels to those which are more plentiful but also more expensive than the cheap energy to which we have been accustomed; it will require that we encourage both exploration and production; it will mean that as we act to prevent the energy industry from making unconscionable windfall profits, we must also avoid crippling that industry with punitive legislation; and finally, it will require that we make some difficult decisions as we sort out our economic and environmental priorities.

As we seek to act domestically to increase fuel supplies, we will act internationally in an effort to obtain oil at reasonable prices. Unreasonable increases in the cost of so vital a commodity as oil poses a threat to the entire structure of international economic relations. Not only U.S. jobs, prices and incomes are at stake, but the general pattern of international cooperation is at stake as well. It is our hope that we can work out cooperative efforts with our friends abroad so that we can all meet our energy needs without disrupting our economies and without disrupting our economic relationships.

Last week I sent to the Congress a comprehensive special message setting forth our energy situation, our energy prospects, our energy needs, and the legislative measures I consider necessary for meeting those needs. I shall not repeat that analysis nor the full list of those recommendations today.

I do want to urge, however, that the critical energy measures which I have proposed be made the first order of legislative business in this session of the Congress, and that work go forward expeditiously on the others. Those measures which I request be given the highest priority are the following:

—A special energy act which would permit additional restrictions on energy consumption and would postpone temporarily certain Clean Air Act requirements for power plants and automotive emissions;

—A windfall profits tax which would prevent private profiteering at the expense of public sacrifice;

—Unemployment insurance for people in areas impacted by serious economic dislocation; and

—Mandatory reporting by major energy companies on their inventories, their production and their reserves.

I am also asking that the Congress quickly establish the Federal Energy Administration and the Energy Research and Development Administration to provide the appropriate organizational structure for administering the national energy policy, as we work toward the establishment of a Department of Energy and Natural Resources.

The 13 other energy measures I requested last week deal with longer-term needs, extending beyond the present emergency. But these also require expeditious action if we are to achieve the goal of Project Independence—a capacity for energy self-sufficiency by 1980. The success of Project Independence is essential to the continued strength of our position in world trade, and also to our independence of action as a great power.

I hope that our joint efforts now to resolve the energy crisis and to move toward a capacity for self-sufficiency in energy will enable the President who addresses the 98th Congress a decade from now to look back and say we made it possible for America to enjoy continued peace and prosperity in the 1980's.

THE NATION'S ECONOMY

The world economy

During the past three years the United States has reached an unprecedented level of material prosperity. Industrial output has set new records. Trade has

flourished. Consumption has risen to the highest levels in history. Even our inflation rate—the most serious economic problem we now face—has been one of the lowest in the industrialized free world.

The major policy decisions we took in 1971 contributed significantly to this prosperity—both here and in other countries. It was clear, for example, as we moved into the 1970s that the international monetary system adopted after World War II needed major adjustments. Unsustainable imbalances had developed, threatening a resurgence of protectionism and a disruption of world trade. This is why I decided to take some very strong measures in August of 1971, measures that have resulted in a major realignment of world currency values, progress toward new and more flexible international monetary management, and negotiations toward a more open and equitable trading system.

These adjustments, while essential, were not easy. But now we have finally entered into a more flexible and realistic international financial system. Much remains to be done to complete the transition, but its beneficial results are already clear.

The realignment of currency values helped produce an increase of 80 percent—or more than $50 billion—in the rate of U.S. exports during the past two years, along with a major improvement in our trade balance. This improvement was good not only for us, but also for the rest of the world. In addition, the shocks to the world economy arising from reduced food supplies in 1972 and 1973, and in recent months from the oil embargo and the arbitrary increases in the price of oil, all were managed without panic under the new arrangements. Indeed, world trade has continued to expand, despite these temporary difficulties.

INTERNATIONAL TRADE BARRIERS

A vigorous international trade is vital to the American economy. Jobs for American workers depend on our ability to develop foreign markets. Moreover, American consumers deserve access to foreign-made products that might be less expensive, or more interesting, or unavailable in the United States. But if trade is to be advantageous over the long run, it must be conducted on a basis which is fair to all participants.

There are still many unnecessary barriers to trade which need to be lowered or removed. While improvements have been made in this situation during the last 10 years, we need now to build on this progress and to negotiate for more open access both to markets and supplies. This is why I call upon the Congress with special urgency to complete action on my proposed Trade Reform Act, in order to provide the authority we will need to negotiate effectively for reductions in barriers to trade, to improve the trading system, and to manage trade problems at home more effectively.

As the Senate considers this legislation, I would draw its attention particularly to provisions added in the House which would seriously impede our efforts to achieve more harmonious international relationships. These provisions would effectively prevent both the extension of nondiscriminatory tariff treatment and of credits to certain Communist countries unless they followed a policy which allowed unrestricted emigration. I am convinced that such a prohibition would only make more difficult the kind of cooperative effort between the United States and other governments which is necessary if we are to work together for peace in the Middle East and throughout the world. I am confident that by working with the Congress we can find a solution to this problem that will avoid a major setback in our peacemaking efforts.

At the same time, we must move forward with current negotiations to reform the international payments system under the auspices of the International Monetary Fund. These negotiations are designed to increase the opportunities for all nations to trade and invest profitably. The U.S. has already presented proposals for deterring the growth of significant imbalances in international monetary affairs while preserving for each nation a wide freedom in choosing how necessary adjustments can best be accomplished. In addition, the system will also have to accommodate the increased payments flow and prospective reserve accumulations occasioned by higher oil prices. If, however, other nations share with us the will to preserve a healthy and growing world economy, I am confident that a mutually acceptable solution to this problem will be achieved.

In practice, this means that our markets must increasingly be open to imports from developing countries—a condition that would be significantly facilitated by enactment of the Trade Reform Act. It also means that the Congress must continue to authorize and appropriate our fair share of both bilateral and multilateral economic assistance, including a substantial contribution to the International Development Association which helps the poorest countries. In 1973 we successfully negotiated a reduction of the United States share from 40 percent to one-third of IDA funds. We cannot let the action of the House in voting against IDA stand as our final answer. We will work hard with the Congress to ensure that this country continues to play a leadership role, consistent with our own economic situation, so that long-term economic development can continue to be planned in an orderly manner.

Along with trade and monetary problems, new international agreements on investment policies and new mechanisms for dispute settlement are high on our negotiating agenda for the coming year. We must continue to work for economic arrangements which permit the beneficial flow of international investment so that all may derive the maximum benefit from their own resources. To that end, I am glad to be able to note that this week the United States completed the phaseout of controls on flows of capital from this country.

The recent oil embargo and especially arbitrary increases in the price of oil have created major economic problems for many countries, including the United States. If continued, these policies would require enormous transfers of goods and assets from oil importing nations, transfers which would represent a serious burden for even the wealthiest countries and which would be virtually unbearable for the less developed countries.

Our objectives are clear—we must get world oil prices down from levels that are arbitrary and exploitative. We must also cooperate to ensure that the international and domestic economic policies of the advanced countries do not compound the economic disturbances created by the current emergency but rather that we do all that can be done to contain and limit those disturbances.

THE DOMESTIC ECONOMY

Despite our general prosperity, inflation remains a most serious economic problem, not only in the United States but also for the rest of the world. We see clear evidence of this problem at every hand. World oil prices have gone up recently at dramatic rates. World food, metals and other commodities prices are also up sharply. Because domestic prices cannot be isolated from international prices, worldwide inflationary pressures have helped to drive up prices here at home.

Inflation has been a continuous problem for nearly a decade, and it got worse in 1973. The result has been that people have come to expect continuing price increases—and to behave accordingly in their own economic life. Their behavior, in turn, adds further to inflationary pressures, contributing to a vicious inflationary spiral which is difficult to break.

Some people have said that the best way to wring these inflationary expectations out of our economy is by taking the economy into a recession. I disagree. It is true that a lower level of economic activity would reduce demand and thus lower the pressure for higher prices. However, the cost of such a policy in terms of increased unemployment would simply be unacceptable.

By the same token, I also reject the notion that we should totally ignore inflation and concentrate solely on stimulating higher levels of employment. This policy would also involve too high a cost since it would unleash a further acceleration of the inflation rate.

In developing my economic policy for 1974, I have chosen what I believe is a sound middle road: to cushion the economic slowdown we expect during 1974 without providing additional stimulus for inflation. We expect this policy to reduce the rate of inflation by the end of the year. Should there appear to be a serious threat of a severe slowdown, then we will act promptly and vigorously to support the economy.

As we cope with the challenge of inflation, we must recognize the clear lesson of recent years: While direct controls over prices and wages can help fight inflation in the short-run, they have a very limited useful life. Inevitably, their eventual effect is to create or aggravate significant distortions in production and distribution. Accordingly, I will continue

to watch the wage-price situation closely and to pursue a policy of gradual, selective decontrol except in particularly troublesome areas.

At the same time, those Federal programs that will help reduce inflation by increasing the supply of scarce resources will be strengthened. One key area where we can look forward to expanded supplies is that of food. With a new national farm policy that encourages rather than discourages output, we achieved a record harvest in 1973 and another record harvest now appears likely in 1974. Increased agricultural output is the only sure way to bring food prices down—and increased output is what our new policies are producing.

Rapid inflation is not inevitable and it must not be tolerated. To regain control of inflation, however, will require patience and persistence over the long course. My Administration is dedicated to achieving this objective and we are confident that with the help of the American people we will succeed.

Another most pressing economic problem—and a major contributor to inflation—is the energy crisis. As the cost of using our own fuel resources came to exceed the cost of imports in the 1960's, it became increasingly attractive for us to import oil and petroleum products. Unfortunately, our growing dependence on imports made our entire economy more vulnerable to outside forces. That vulnerability has been tested in recent months—as has the even greater vulnerability of the developed countries of Western Europe and Japan and the less developed countries which have no oil. Every American has learned the consequences of this vulnerability: short fuel supplies and higher fuel prices.

To a large extent, our flexible, adaptable economy will solve the longer run energy problem through the normal workings of the marketplace. As energy prices reach somewhat higher levels than the bargain rates of the past, conservation will be encouraged while domestic energy production will be expanded. One example of normal market forces at work has been the recent shift to smaller cars with better gas mileage. Over the next few years we can also expect to see an expansion of coal production and new output of oil and natural gas.

Nevertheless, we will still have to import some of the oil we will need in the immediate future. It is essential, therefore, that we seek a more reasonable price for oil in the world market.

It is also imperative that we review our current and prospective supplies of other basic commodities. I have therefore directed that a comprehensive report and policy analysis be made concerning this crucial matter so that governmental actions can properly anticipate and help avoid other damaging shortages.

Even with the inflation and energy problems, 1973 was a year of many important economic gains for American people.

First, employment in 1973 increased by 2.7 million persons; this 3.3 percent rise in employment was the largest since 1955. New job opportunities greatly benefitted all categories of workers, including women, non-whites, teenagers, and Vietnam veterans. Unemployment reached low levels, especially for skilled workers.

Second, the purchasing power of the American people reached new highs last year. Even after allowing for price increases, people are now consuming more goods and services than they did a year ago, or in any other year in the entire history of the United States.

Not everyone's purchasing power went up, of course. Inflation took its toll on many families whose income did not rise as fast as that of the average American. It is for this reason that we continue to regard inflation as a very serious enemy. At the same time, however, we should not ignore the substantial economic gains that have been made.

PERSPECTIVE ON 1974

We have known for some time that a slowdown in economic growth is inevitable in 1974. It has been clear that our economy has simply been growing at an unsustainable rate. Shortages of skilled workers, full utilization of plant and equipment in key industries, and short supplies of a number of essential raw materials have all provided clear indications that our rate of growth would have to taper off. Unfortunately, the very mild slowdown which we anticipated for 1974 now threatens to be somewhat more pronounced because of the oil embargo, the resulting shortages, and the oil price increase.

We expect, therefore, that during the early part of this year output will rise little if at all, unemployment will rise somewhat and inflation will be high. Our objective, however, is to turn this situation around so that later in the year output will be rising more rapidly, while unemployment will stop rising and will then decline, and the rate of inflation will slow.

ROLE OF THE FEDERAL BUDGET

The budget that I will recommend to the Congress next week will help us achieve our goals for this period. It will support the economy, resisting a major slowdown, but it will not provide a degree of stimulation that could accelerate inflation. If future events suggest that a change in fiscal policy is desirable, I will promptly recommend the appropriate changes. In particular, I will not hesitate to use the stimulus of fiscal policy if it becomes necessary to preserve jobs in the face of an unexpected slackening in economic activity.

For fiscal year 1975, my budget recommends total spending of $304.4 billion, an increase of $29.7 billion over the current year. The increase is being held to the minimum level necessary—nearly 90 percent of the increase is unavoidable under existing law. The budgeted increase in relatively controllable outlays is only 4.2 percent.

Federal receipts should reach $295 billion during fiscal year 1975, an increase of $25 billion. The projected budget deficit is $9.4 billion. Under conditions of full employment, however, Federal receipts would be substantially higher and there would instead be a moderate budget surplus.

The Federal budget remains an essential tool in the fight against inflation. With the energy supply limitations we are experiencing and the price pressures they create, budget discipline is still required.

I have noted with satisfaction that most Members of the Congress have also recognized the need for budgetary discipline, and that work is going forward to establish a more systematic budgeting procedure. The Congress devoted considerable effort in 1973 to developing a mechanism for coordinating its individual spending decisions with the budget as a whole. I continue to support this effort, although I have been troubled by some of the extraneous amendments which have been added to some of the measures for achieving this goal. I urge the Congress to enact workable budget reform in this legislative session.

TAX REFORM

Our entire economy is affected by the incentives for job-creating investments that are embodied in our tax laws. Major steps have been taken to reform our tax laws in the past five years, but much remains to be done.

Since 1969—primarily through the Tax Reform Act of 1969 and the Revenue Act of 1971—major changes have been introduced to make the personal income tax system conform more nearly to contemporary standards of fairness. Both the higher level of personal exemptions and the low income allowance have worked to free more than eight million low income families from their entire Federal income tax burden. The difference in the tax liability for single and married taxpayers has also been reduced. As a result of these and other tax changes, individual income taxes will be about $25 billion less in 1974 than they would have been under the old tax laws. The saving in the tax burden for a typical family will be more than $270, or the equivalent of two weekly take-home paychecks for the average worker.

I look forward to working with the Congress during the next few months not only to simplify our tax laws themselves, but also to simplify the tax forms that individuals fill out and to distribute the income tax burden more equitably.

Last April, the Secretary of the Treasury presented to the Congress a set of Administration proposals for major and fundamental tax reform. Included in these proposals were the establishment of a minimum taxable income so that no one could avoid paying a fair share of the tax burden, the establishment of new rules for taxing income from foreign sources, and also a limitation on artificial accounting losses to eliminate so-called "tax shelters." I urge the Congress to consider the Administration's tax reform proposals early in the year.

I have also been concerned about the excessive burdens imposed on our low income elderly families by State and local property taxes. To deal with this problem, I have proposed a refundable tax credit for those low income elderly persons whose property taxes exceed five

percent of their income. The proposal would also provide equivalent relief for the low income elderly individual who pays rent. I again urge the Congress to enact this very important proposal.

FINANCIAL REFORM

The health of our economy depends upon an efficient and flexible private financial system—commercial banks, thrift institutions, credit unions, and a host of other institutions and individuals that comprise the financial sector of our economy. The average family depends on these institutions, both to provide a fair and reliable return on its savings and to provide credit on reasonable terms when needed to buy homes, automobiles and other purchases. There have been occasions recently when this financial system has not worked as well as it should—occasions, for example, when mortgage lending has been very difficult to obtain. In large part these problems have been the result of legislation, regulations and institutional arrangements which were suited to an earlier time but which are now obsolete.

To remedy this problem I submitted draft legislation last year which reflected the results of careful study by a Presidential commission and Government experts. I again urge the Congress to act promptly on this matter so that American families, businessmen, and local governments can be served by a financial system suited to the economic conditions of the 1970s.

The Administration is also studying the competitive position of foreign banks within this country and of American banks abroad to make sure that discriminatory regulations do not prevent American banks and other financial institutions from doing business they are entitled to do. I will be following the results of this study with considerable interest and will submit to the Congress any proposals resulting from the study which seem desirable.

A HEALTHY AGRICULTURAL ECONOMY

Abundance is the primary goal of our farm policy—abundance that can guarantee lower food prices for every American and higher incomes for all American farmers.

Five years ago, agriculture was a troubled industry:

—Government controls were reducing incentives for production and costing the taxpayers over $3 billion a year in farm subsidies designed to hold down production.

—Farm income was low ($14.7 billion) and the long hours worked by farmers earned them an average income that was 26 percent below the nonfarm average. Farm families had been leaving the farm at an average rate of over 100,000 a year.

Today, that picture has been dramatically altered:

—Farm markets have expanded dramatically. Farm exports have set new records in each of the last four years, becoming the largest single factor in the Nation's balance of payments and strengthening the dollar in international money markets.

—Farm production has reached new record levels in each of the last three years, and a new record harvest should be forthcoming in 1974.

—The billions of tax dollars which used to go for farm price support payments for basic commodities every year will be reduced to nearly zero.

—Farm income has reached record levels. By 1973, the gap between farm income and nonfarm income had closed from 26 to 7 percent. Net farm income was up from $14.7 billion to $26.1 billion.

We are making this progress not through more Government regulation but less. One of the proudest achievements of this Administration was the enactment of the Agriculture and Consumer Protection Act of 1973, which places production decisions where they belong—with farmers, not with the Government.

A primary challenge for Federal agricultural policies now is to encourage greater production of agricultural goods—which will mean more income for the farmer, greater international trading benefits for the Nation, and reasonable food prices for the consumer. I am therefore asking the Congress to revamp the programs which still require restrictive Federal control over the production of some remaining farm commodities—especially rice, peanuts, tobacco, sugar, and extra long staple cotton.

To further enhance agricultural activity, the Administration will also:

—Promote longer-run soil and water conservation practices.

—Consolidate the locations of local offices of Federal agricultural agencies—specifically, the Agricultural Stabilization and Conservation Service, the Soil Conservation Service, the Farmers Home Administration, and the Federal Crop Insurance Corporation — creating one-stop agricultural service centers on the local level to make things easier for the farmer and less costly for the Government.

—Place high priority on directing agricultural research into those areas which will assure plentiful agricultural goods at reasonable prices, maintain our competitive advantage in world agricultural production, and protect the land.

At my direction, Secretary Kissinger recently proposed to the United Nations that it convene a World Food Conference, a concern made urgent by acute food shortages in many parts of the world. This conference, to be held in November of 1974, should prove of particular importance to the American farmer, whose extraordinary productivity has made this Nation the world's leading food exporter and whose own prosperity will continue to increase as we help to meet the needs of a hungry world.

Our farm policy must of course address not only the needs of the farmer but also those of the consumer. During 1973, we experienced a period of rapidly increasing food prices. Those prices leveled off in late 1973, but now we appear to be heading into a period of increasing food prices for at least the next few months. It is our intention to hold these increases to the smallest possible rate through executive actions such as lifting the quota on wheat imports, an action that I took last week. But the most significant force in the battle against higher food prices is higher production. This summer and fall, the large 1974 harvest should be coming on the market, serving as the best possible damper on higher prices.

ECONOMIC SECURITY

One of the most significant legislative achievements of 1973 was the enactment of the Comprehensive Employment and Training Act (CETA). A form of manpower revenue sharing, this bill transfers from the Federal Government to States and localities significant control over the design and operation of programs to improve the employability of the unemployed and the underemployed. CETA is a landmark of the New Federalism. It is also a landmark on the way to better manpower programs.

Under this legislation, State and local governments will be able to use Federal funds to meet locally-determined needs and to devote special attention to employment problems with particular local impact—as, for example, those that might arise in certain areas as a result of the present energy shortage. In my new budget, I am including an additional $250 million for CETA in the current fiscal year, and $350 million in the year beginning July 1, for distribution to areas with high unemployment. Overall, I am requesting more than $2 billion to fund our training and employment programs in the coming year.

Other proposals related to economic security that I made to the Congress last year, and on which I again urge action, include:

—The establishment of minimum vesting, funding and fiduciary standards for private pension programs, so that workers could have greater assurance of receiving the pensions they expect and deserve when they retire. I urge that we work together to resolve speedily the remaining disagreements and to enact responsible legislation which increases employee protection without burdening employers to such an extent that existing plans are jeopardized or new ones discouraged.

—Extension to State and local governments of the law forbidding employment discrimination against older workers.

—Improvement of the Federal-State unemployment insurance program in several ways: by increasing the State limits that keep some unemployed workers from receiving a reasonable proportion of their normal wage, by extending coverage to farmworkers, and by prohibiting payment of benefits to strikers while assuring benefits to non-participants unemployed as a result of a strike.

These general improvements in unemployment insurance should be augmented by a special extension of present benefits for those specific areas of the country which experience particularly high levels of unemployment over the next 12 months. In addition, basic coverage should be provided for those in these areas who do not at present have any unemployment insurance. I will submit special legislation to achieve this purpose.

I also continue to support legislation to raise the minimum wage. Higher prices have eroded the purchasing power of workers receiving the current minimum wage. But we must be careful to guard against enacting a bill which includes sharp increases or coverage extensions that would keep low income workers from being employed or a bill with a minimum wage for youths so high that we unwittingly deny them jobs.

Finally, we must attack one of the most troublesome problems faced by both rural and urban areas; the existence of persistent and often severe unemployment or low incomes in areas whose character has been altered by changes in our economy and technology. Within the next several weeks, I will propose an Economic Adjustment Assistance program to help States and communities in overcoming problems caused by structural changes in their economies. This program would replace the present Economic Development Administration and the Regional Action Planning Commissions after a period of orderly transition.

INCOME SECURITY

One measure of a nation's character is the respect it accords to its elderly. Another is the way it helps those in need. We can be proud of the efforts we have made, but it is time to reassess where we are and what direction we should take in the future.

We can take pride in the fact that:

—Cash benefits under social security have risen from $26 billion in fiscal year 1969 to $63 billion in fiscal year 1975, primarily as the result of five benefit increases totaling almost 70 percent and reaching 29 million persons.

—A program of Supplemental Security Income has been initiated and will soon be providing benefits to more than 5 million of the low-income aged, blind, and disabled, on a uniform, nationwide basis in a way that respects their dignity.

But our income security programs need more than improved benefits.

Over the past thirty-five years, a multitude of federally funded programs has grown up whose primary purpose is income security for those in need. Each of these efforts reflects a humane attempt to respond to a worthy goal. However, as cash, in-kind and service programs have rapidly expanded in the past few years, two things have become painfully clear:

—First, the result is an extremely costly set of generally unrelated, uncoordinated programs with many unintended and undesirable consequences; and

—Second, these efforts neither efficiently nor equitably accomplish the overall objective of assisting lower income families and individuals to achieve greater economic independence.

The fact that a third of the new Federal budget—$100 billion—will be spent on income security programs in fiscal year 1975, compared to the $38 billion, or one-fifth of the budget, which they received just five years ago, highlights the need to rationalize and integrate our income assistance programs.

As long ago as 1969, I called for a complete overhaul of our discredited welfare programs. I said then that "whether measured by the anguish of the poor themselves, or by the drastically mounting burden on the taxpayer, the present welfare system has to be judged a colossal failure."

At that time, I proposed the Family Assistance Plan. Neither the Congress nor the country accepted that proposal. I do not intend to resubmit a new version of the Family Assistance Plan.

Since then, we have made a concerted effort to improve the administration of the existing programs. In 1973, for the first time in recent years, because of vigorous new Federal and State initiatives to enforce the rules more strictly, growth in the Aid to Families With Dependent Children case load was halted. But, in their overall impact, the welfare programs remain a failure and an outrage.

As an example of the failure, recent studies have shown that fully 40 percent of the AFDC benefits being paid are either going to ineligible persons or are incorrect in amount. This peformance is not just the result of fraud, although there is some of that. It is primarily and overwhelmingly the result of a system which is so complex and so riddled with obscure, obsolete and incomprehensible regulations that it defies fair and efficient administration.

I plan to make a major new effort to replace the current maze of welfare programs with a system that works. This task will be difficult, but we have no other alternative, save further waste—both of lives and dollars. I welcome the evidence that thoughtful Members of the Congress, after careful study, have reached the same conclusion.

While this effort goes forward, I will make every possible effort to improve the operation of the existing programs through administrative reforms, recognizing that a replacement system cannot be developed, enacted, and put into operation overnight. But, unless we move urgently to the development of a new system, efforts to improve the administration of the present programs will eventually be undermined by their basic structural flaws.

In the development of my proposal, I will be guided by five principles:

(1) All Americans who are able to work should find it more rewarding to work than to go on welfare. Americans would strongly prefer to have good jobs rather than a Federal handout. While we should provide cash assistance to those in need, we must always encourage complete self-support for those who are capable of it.

(2) Cash assistance is what low-income people need most from the Federal Government. The people themselves, not the Federal Government, know their own needs best.

(3) We need to focus Federal help on those who need it most. People in need should receive equal treatment from the Federal Government regardless of their place of residence.

(4) The new system should be as simple as possible to administer with rules that are clear and understandable. It should be based on objective criteria rather than the personal judgment of administering officials. And it should be sufficient.

(5) This new approach should not require an increased tax burden for any of us. Too much of the income of all of us now goes to support Government. We help no one—certainly not those in poverty—by weakening our free enterprise system by even higher taxation.

Starting from these basic principles, I believe we can develop a new system which would insure that those who can help themselves do help themselves, and which would allow those who cannot help themselves to live with dignity and self-respect.

IMPROVING OUR PEOPLE'S HEALTH

In February of 1971, I outlined to the Congress a new national health strategy to assure that no American would be denied access to high quality medical care because of an inability to pay. Much has already been accomplished toward meeting that objective.

A little over two years ago, I took special satisfaction in signing into law the National Cancer Act, which enabled us to launch an accelerated effort to conquer this dread disease. Considerable progress has been made in our attack on cancer and there is much hope that additional knowledge can be developed in the future. In the budget that I will submit to the Congress next Monday I plan to ask for an additional $100 million above last year's request of $500 million for the expanded attack on cancer. In addition, biomedical research in other areas, including heart disease, has been intensified—and the total 1975 budget for biomedical research will exceed $2 billion, more than double the total in fiscal year 1969.

We are also making headway toward increasing the Nation's supply of health manpower. During the last ten years, first year medical school enrollments have grown by more than 55 percent. The number of other health professionals also can be expected to grow dramatically. Just last month, I approved legislation along the lines I requested in 1971 to permit the Federal Government to support the demonstration of health maintenance organizations across the Nation. During both 1974 and 1975, $125 million will be provided through health maintenance organizations to demonstrate the benefits of prepaid health care to our citizens.

Federal programs to finance health services for the aged, for the disabled, and for low income persons have been greatly expanded. Since 1969, Medicare and Medicaid coverage has been extended to an additional 21 million aged, disabled, and low-income Americans. The

range of services covered under Medicare and Medicaid has also increased.

Consumer safety programs—to assure safe foods, drugs, cosmetics, and other consumer products—have received almost a fourfold increase in Federal funding since 1969.

Despite all these advances, however, too many Americans still fail to receive needed health care because of its costs. And too often the costs of health care threaten our citizens with bankruptcy while the services that can prevent or cure disease are not fully utilized.

As one of my major new initiatives for 1974, I shall soon submit to the Congress a comprehensive health insurance proposal which would:

—Make available health insurance protection to millions of Americans who currently cannot obtain or afford the private health insurance coverage they need.

—Provide all Americans with vastly improved protection against catastrophic illness.

—Place a new emphasis on preventive health care.

—Provide State and Federal subsidies for low-income families, and for those whose special health risks would otherwise make them uninsurable or insurable only at exorbitant expense.

My comprehensive health insurance proposal will build upon the strengths of the existing health system, rather than destroying it. It will maintain the high quality of medical care without requiring higher taxes. It will be based on partnership, not on paternalism. And most importantly, it will require doctors to work for their patients, not for the Federal Government.

This plan would require that employers offer a comprehensive health insurance plan to all their full-time employees, with the employer paying a share of its costs. The role of private health insurance in financing health care would be expanded and the consumer's opportunity to choose between competing health insurance plans would be enhanced.

In addition to this plan, there are a number of other health-related measures that I urge the Congress to enact this year. These include:

—A Health Resources Planning Act, to help States and localities improve their planning and use of health resources;

—New and expanded national health service scholarship legislation, to increase the number of Federal scholarships available to students in health professions, and also to help ensure that the Federal Government can meet its needs for physicians; and,

—A general expansion of the guaranteed student loan program, to provide adequate financial assistance to all professional and graduate students, including health professionals.

IMPROVING EDUCATION

The Federal Government should provide strong leadership in assuring equal access to a high quality education for all Americans and in bringing about renewal and reform of all of our education programs.

Since 1969, we have raised Federal spending for education from $4.3 billion to $7.6 billion—an increase of 76 percent.

In special messages to the Congress on education in the past, I set forth five major proposals to improve American education. They were:

—A new program of student assistance to help to insure—for the first time in the Nation's history—that no qualified person is barred from attending college by lack of money.

—A National Institute of Education, to be the focal point for educational research and development aimed at increasing our knowledge of how to help students learn.

—A National Foundation for Higher Education, to encourage innovation in learning beyond high school.

—An Emergency School Aid program to assist desegregating school districts.

—A thorough reform of the programs for Federal support of elementary and secondary education, consolidating the myriad separate categorical grant programs in order to transfer educational decisions back to the State and local levels where they belong.

The first four of these basic proposals have been enacted, in whole or in part, and a great deal has already been accomplished through them. As for the fifth, reform of Federal funding for elementary and secondary education, I believe that 1974 should be the year of its enactment.

COLLEGE STUDENT ASSISTANCE

The Basic Educational Opportunity Grant Program is the primary vehicle in my effort to ensure that no qualified student be denied a college education because of lack of funds. In my new budget, I am asking Congressional approval to strengthen this program by providing grants of up to $1,400 a year for needy students. Altogether, when combined with other student funding efforts, the Federal Government in the coming fiscal year would provide an estimated $2.2 billion of financial aid to post-secondary students, an increase of over $900 million from the level of five years ago.

Since the present student assistance programs are targeted to help the neediest, and because the costs of higher education have risen dramatically, many middle income students are now finding it increasingly difficult to make ends meet. I therefore also recommend that the limit on total borrowing be increased so that professional and other graduate students will be able to find adequate student loans.

EDUCATIONAL RESEARCH AND DEVELOPMENT

When I originally proposed the creation of a National Institute of Education, I suggested that providing equal opportunity for quality education means, in part, increasing our knowledge about the ways that students learn and then changing the way we teach them. For too long we have followed the belief that bigger educational programs are necessarily better educational programs and that money alone can solve our educational problems. But now we are beginning to see that the quality of our thinking about education can be as important as the size of our educational budget.

The National Institute of Education can help us to marshal our educational resources in ways which will produce the best results. It has already begun to provide the kind of leadership in educational research and development which I have long believed was needed.

EDUCATIONAL INNOVATION BEYOND HIGH SCHOOL

While the National Foundation for Higher Education which I proposed in 1970 has not been established, the Fund for the Improvement of Post-Secondary Education was set up by the Congress. The fund is now providing support for the development and demonstration of more effective approaches to college level education. Our initial assessment leads me to believe that the fund will, in the years to come, become the primary focal point for innovation in higher education.

ASSISTING SCHOOL DESEGREGATION

Under the Emergency School Aid Act of 1972, an estimated $467 million in Federal funds will have been provided to local school districts by the end of 1975 to assist in the process of elementary and secondary school desegregation, to encourage voluntary programs to overcome minority group isolation, and to assist in meeting the educational needs of children who, because of racial isolation, have not had an equal educational opportunity.

By the 1975–1976 school year, the bulk of the problems incident to "de jure" segregation should have passed. However, to provide assistance to those other school districts which may still be required to take special desegregation measures as the result of court rulings, I have budgeted an additional $75 million for fiscal year 1975. In addition, the Federal Government will continue to provide civil rights education advisory activities to local districts to assist them in meeting any remaining problems.

BUSING

I have often expressed my opposition to the use of forced busing for purposes of achieving racial balance. I have also proposed legislation which would dictate reasonable limits on the use of forced busing, and I have opposed the consolidation of school districts in an effort to achieve racial balance in the larger district. Such consolidation plans have only led to more busing and the eventual disappearance of the neighborhood school. The end result of an excessive reliance on forced busing and the imposition of arbitrary ratios has frequently been an increasing concentration of the poor and minorities in our central cities and the serious weakening of the very school systems which must serve them. In some cases, the education of minority children has actually suffered, not benefited from such plans.

I shall continue to support the passage of legislation which makes busing only a last resort—tightly circumscribed even then. I will also continue to work with the Congress to revise my proposals in light of unfolding events in this area.

FUNDING ELEMENTARY AND SECONDARY EDUCATION

I am encouraged by the interest the Congress has continued to show in legislation which follows the concepts put forward in my proposed Better Schools Act. I believe that meaningful compromise is now possible, and that we can at last reform and consolidate Federal grants for elementary and secondary education, vocational programs and adult education.

I hope that the Congress will include four basic elements in this reform:

—Consolidation of existing categorical grant programs.

—Granting greater decision-making authority to State and local educational agencies.

—Greater equity in the distribution of Federal funds to the States for the education of disadvantaged children.

—Reform of the impact aid program to concentrate support in those districts where the Federal presence has substantially decreased the tax base, rather than those in which it has increased the tax base.

Upon enactment of legislative authorities that accomplish these goals for elementary and secondary education, vocational programs and adult education, I will propose special supplemental appropriations to provide funding for the 1974–1975 school year. This funding would place most elementary and secondary education grant programs on a "forward funded" basis, letting State and local agencies know how much they will receive while plans for the next school year are being made. "Forward funding" is an important concept in the financing of education, and its merits the full support of the Federal Government.

As I noted in my message sent to the Congress on education policy last week, I also recommend additional support for several other educational programs—some old and some new. These include:

—An additional increase in aid to black colleges and other developing institutions during fiscal year 1975, thus quadrupling Federal funds for these important educational institutions since I took office.

—Continuation and extension of the Head Start program, our single largest child development program. In 1975, Head Start will reach 282,000 disadvantaged youths year-round, as well as some 78,000 pre-schoolers during the summer—and it will extend its activities to include handicapped youth.

—The consolidation of eight separate authorities for education of the handicapped into four broader and more flexible programs.

NON-PUBLIC SCHOOLS

I remain firmly committed to the principle of educational diversity. The continued health of the Nation's non-public schools is essential to this concept. Although governmental efforts aimed at supporting these schools have encountered difficulty in the courts, I believe we must continue our efforts to find ways to keep these schools open.

For that reason, I continue to support legislation which permits tax credits for parents who pay to send their children to non-public schools.

HELPING OUR VETERANS

Twenty-nine million Americans living today have given military service to their country. As a group, veterans are among our most productive citizens. Studies show that they generally have higher incomes, more education, and better health than non-veterans of the same age.

We can be proud of the veterans' contributions, but we must also be concerned for those veterans and veterans' families who remain in need.

The assistance provided to veterans and their families in recent years has been substantial:

—Total compensation payments for veterans disabled or killed in military service have been increased from $2.7 billion in 1969 to $3.9 billion in the coming fiscal year.

—Medical care in VA hospitals and clinics has been greatly improved and expanded, with ten new or replacement hospitals now in service and five more in preparation.

—Educational benefits per trainee have more than doubled since 1969.

—Last year two key measures—one expanding health care and the other improving the national cemetery system for veterans—were passed and signed into law.

—Of vital importance, the unemployment rate for Vietnam era veterans has been sliced from 11 percent in early 1971 to 4 percent by late 1973. As a result, Vietnam era veterans have a higher employment rate than others of their same age, a significant achievement that is well deserved.

Earlier this week, in a special message to the Congress, I proposed additional legislation to help veterans in two crucial areas in 1974—pensions and education.

My pension proposals would benefit some 1 million veterans and 1.3 million veterans' survivors who are in economic need because of disability, age, or the loss of a breadwinner. VA pensions already go a long way toward meeting such needs, but the pension structure itself is fraught with inequities and anomalies that are technical in nature but tragic in consequence. My proposals would correct these deficiencies.

Veterans now in training require additional help if their GI bill allowances are to keep pace with rising costs. I shall therefore propose that GI bill benefits be raised by an average of 8 percent.

I have also set a 1974 goal for the Government of placing an additional 1.2 million veterans in jobs or job training. There remain sizable numbers of educationally disadvantaged veterans and service-disabled veterans who have never taken advantage of Federal training opportunities and are now unemployed. I have directed that, as a matter of high priority, the Federal Government's efforts to reach these veterans be intensified and that they be counselled and encouraged to use the available services.

EQUAL OPPORTUNITY FOR ALL AMERICANS

This Administration has made a determined effort to secure equal opportunity for those who have been previously denied such opportunity. I am personally very proud of the success those efforts have already achieved, and I am committed to building on that success in the future.

PROGRESS FOR MINORITY GROUPS

Members of racial minority groups have made considerable strides toward equal opportunity in recent years. The following are among the more notable benchmarks of this progress:

—Setting an example as an Equal Opportunity Employer in the past five years, the Federal Government has added more than 35,000 minority group members to its civilian employee roles.

—In the Armed Forces, more than 850 minority-group cadets are now enrolled in the military academies; and whereas prior to 1971 only four minority group members had ever achieved general or flag rank in the armed forces, now sixteen serve on active duty as generals and admirals.

—Federal aid to minority business enterprises—one of the cornerstones of the Administration's effort to open new economic horizons for minority group members—has nearly tripled since 1970.

—Civil rights enforcement activities have continued at a vigorous level, with their funding substantially increased.

—Since 1969, combined Federal expenditures on civil rights activities and minority economic development programs have grown from less than $1 billion to $3.5 billion.

—Five years ago 68 percent of all black children in the South were still attending all-black schools. Now that figure has been reduced to 8 percent, and the dual school system has been virtually eliminated.

—The Government has also sought to expand job opportunities through legal actions of its own against those who may be engaged in discriminatory practices. During 1972 and 1973 the Department of Justice initiated 34 pattern and practice lawsuits against approximately 207 defendants. These suits directly covered more than 248,803 employees. During the same period of time, approximately 37 cases were fully resolved by entry of decrees and an additional six were partially resolved by the entry of decrees. The decrees entered in those two years alone covered more than 217,000 employees and provide specific goals for the hiring of more than 21,800 minorities and women in traditionally white and male jobs. In addition, those decrees provide new transfer of seniority rights for approximately 12,700 minorities and women and provide for back pay awards which are estimated to amount to well over $6,000,000.

The real story lies not in these figures themselves, but in the facts and the attitudes they represent. They do not represent a flamboyant promise, but

rather a quiet determination to work not only toward the symbols but also toward the substance of equal opportunity. They represent an effort to build foundations that will last—in particular, the foundation of economic independence, and of a basic faith in the equal dignity of mankind.

JUSTICE FOR AMERICAN INDIANS

For too many years the American Indians—the first Americans—have been the last Americans to receive the rights and opportunities to which they are entitled. This Administration has taken the initiative to change this picture.

For its part, the Federal Government must put behind it the role of autocratic manager of Indian reservations. We shall continue to encourage Indians and their tribal governments to play an increasing role in determining their own future. We are also particularly determined to defend the natural resources rights of Indian people.

The last five years have been historic steps in Federal Indian policy. In 1971, we worked closely with Indian leaders to achieve a settlement of Alaska Native claims, a settlement consistent with America's sense of fairness and also indispensable to the growth and development of all of Alaska.

We also returned lands taken away long ago from the Taos Pueblo at Blue Lake. We returned lands wrongfully taken from the Yakima people. Because the Menominee people have seen their tribal states involuntarily terminated but had nevertheless kept their land and their tribal structure together, the Congress enacted and I signed the bill which restored the Menominee tribe to trust status. In the courts, we are forcefully asserting Indian natural resources rights, as we have done in protecting Indian rights in Pyramid Lake.

One measure of our attempt to foster a better, more humane policy is the level of Federal funding benefiting American Indians—over twice what it was five years ago or about $1.6 billion.

I am especially encouraged by the fact that the rate of infant deaths, pneumonia, influenza, and tuberculosis is significantly lower among Indians than ever before. Although we have not yet achieved our full goals of health and educational services for the Indian people that are fully compatible with those of the general population, this progress demonstrates our continuing commitment.

The Congress has shared in these accomplishments in a spirit of bipartisan cooperation. I hope that I will soon have on my desk two more enactments on which Congressional action is progressing; measures to speed Indian economic development and to upgrade the position of the Commissioner of Indian Affairs to the Assistant Secretary level. Also still waiting Congressional action are four other proposals I have submitted previously: to permit turning over to Indian tribal governments the management and control of Indian programs; to create an Indian Trust Counsel with authority to safeguard Indian natural resources rights; to help ensure that funds for Indian education actually reach Indian children; and to provide greater local control over federally assisted reservation programs through a program of tribal grants.

Looking forward, I shall ask that the Bureau of Indian Affairs make specific plans to accelerate the transfer of significant portions of its programs to Indian tribal management, although I repeat my assurances that, while accelerated, these transfers will not be forced on Indian tribes not willing to accept them.

THE SPANISH-SPEAKING

The Spanish-speaking citizens of our Nation face special problems in obtaining equal opportunities because of language and cultural barriers. For that reason, my Administration has made a special effort to expand those opportunities.

Our progress on this front is reflected in many ways. Nearly 3,800 Spanish surnamed Americans have been employed by the Federal Government, despite an overall reduction in Federal jobs. The Small Business Administration has also increased its loans to Hispanic businessmen, reaching a total of $109 million in fiscal year 1973.

In 1969, the Cabinet Committee on Opportunities for the Spanish-speaking people was created. The Cabinet Committee has both made the Government more aware of the needs and the talents of Spanish-speaking citizens and helped to expand Federal employment of the Spanish-speaking. Since the authorization for this organization expires this year, I am asking the Congress to extend its life through June 30, 1975. The Cabinet Committee on Opportunities for the Spanish-speaking serves to focus the Administration's continuing efforts in this important area of concern.

THE RIGHTS OF WOMEN

Both men and women have become increasingly aware of the pattern of sometimes blatant but often subtle discrimination to which women are subjected. Some of this discrimination can be erased by existing law; some requires new law; some would be rectified by the Equal Rights Amendment, now nearing ratification by the required three-fourths of the States. It is my hope that the Equal Rights Amendment will be ratified speedily so that equal justice under our laws will become a reality for every American.

One of the primary goals of this Administration is to ensure full equal employment opportunity for women by striving to open to women jobs that previously were reserved for men, often simply by habit or custom. Specifically, we have moved vigorously both to enforce the law and to lead by example—by insisting on equal employment and promotion opportunities within the Federal services, by promoting more women into the professionally critical areas of middle management and by continuing our special recruiting drive to bring more women into the highest levels of Government.

To help advance these goals I have appointed the first woman Counsellor to the President, and she, in turn, has set up a new Office of Women's Programs within my executive office. We are particularly proud that this Administration is the first to have women as heads of three independent Federal agencies—the Atomic Energy Commission, the Federal Maritime Commission, and the United States Tariff Commission.

The effort to improve the economic status of women outside the Government is also continuing. The Equal Employment Opportunity Commission, which has been given enforcement power in the Federal Courts, has reported a marked increase in its activities to end sex discrimination in employment.

We will continue to pursue all these efforts with vigor. This emphasis is especially appropriate as we approach 1975, which has been declared International Women's Year by the United Nations.

One especially invidious form of sex discrimination in particular is ripe for correction now through new legislation: the discrimination that often denies women equal access to credit. In an economy that increasingly operates on credit, this is a particularly grievous practice.

The Congress already has before it a proposal to ensure that credit is extended to all persons on an equitable basis, without regard to their sex or marital status. This Administration strongly supports this proposal and is sending to the Congress amendments which we believe will strengthen it even further. I urge prompt consideration and passage of this vital legislation.

PROTECTION AGAINST CRIME AND INVASIONS OF PRIVACY

Over the past five years I have had no higher domestic priority than rolling back the tide of crime and violence which rose in the 1960s. I am therefore especially pleased with the progress we are making on this front:

—After 17 years of continuous and often dramatic increases, crime in 1972 registered its first overall decline. Although in 1973 it again registered a slight increase, it still held below the level of 1971. Now that the momentum of increase has been broken, I am confident that we can look forward to further reductions in crime rates in the years ahead.

—Serious crime in our largest cities was actually reduced by 13 percent between 1971 and 1973.

—In Washington, D.C., where the Federal Government has special law enforcement responsibilities, crime has been cut in half since 1969.

Indictments and convictions of organized crime racketeers have more than tripled since 1969, thanks in large measure to the 1970 Organized Crime Control Act and to expanded Federal interagency strike forces. In addition, of course, the riots, urban terrorism, and burnings of the 1960s have now become a thing of the past.

These indications of success do not mean that we should slacken our anti-crime effort, but that we should intensify it. Key elements of our strategy to do so—most of which will require the assistance of the Congress—include:

—Comprehensive reform of the Federal Criminal Code. Last year I submitted a proposal which was based upon the work of the Justice Department and a 5-year study completed by the National Commission on Reform of Federal Criminal Laws. The Federal Criminal Code has not been completely revised in a quarter century and the need for reform is urgent. I call upon the Congress to act expeditiously in reforming our criminal code, to make it both more workable and more responsive to the demands of our complex society.

—Restoration of the death penalty under the Federal Criminal Code for several especially heinous specific crimes which result in the death of innocent victims. Examples of such crimes are hijacking, kidnaping, or bombing.

—Increased Federal assistance to State and local law enforcement agencies. For the next fiscal year, I propose funding through the Law Enforcement Assistance Administration of $886 million—up from only $60 million in 1969.

—Increasing the resources available to the U.S. Attorneys' offices throughout the Nation—offices which have, in the last three years, increased the number of criminal convictions by 28 percent.

—Creation of additional Federal judgeships to assure speedier disposition of criminal cases. Legislation to accomplish this goal is now before the Congress.

—Comprehensive improvement of Federal correctional programs. Already 15 additional correctional institutions have been built, acquired or begun. My 1975 budget request would represent a tripling of 1969's budget levels.

—A new effort to deal more effectively with employment problems caused by the increase in the number of illegal aliens entering this country. Legislation to achieve this objective is also before the Congress.

PROTECTING THE RIGHT OF PRIVACY

One of the basic rights we cherish most in America is the right of privacy. With the advance of technology, that right has been increasingly threatened. The problem is not simply one of setting effective curbs on invasions of privacy, but even more fundamentally one of limiting the uses to which essentially private information is put, and of recognizing the basic proprietary rights each individual has in information concerning himself.

Privacy, of course, is not absolute; it may conflict, for example, with the need to pursue justice. But where conflicts occur, an intelligent balance must be struck.

One part of the current problem is that as technology has increased the ability of government and private organizations to gather and disseminate information about individuals, the safeguards needed to protect the privacy of individuals and communications have not kept pace. Another part of the problem is that clear definitions and standards concerning the right of privacy have not been developed and agreed upon.

I have therefore ordered an extensive Cabinet-level review—which will be undertaken this year—of both government and industry practices as they relate to the right of privacy, of the conflicts that arise and the balances that must be struck between legitimate needs for information and the right of privacy, and of those measures—including appropriate legislation—that can be taken to ensure that these balances are properly struck.

ENDING DRUG ABUSE

During the decade of the '60s, increasing numbers of Americans—including a high percentage of young people—each year turned to heroin and other drugs in search of "new highs" and "synthetic solutions" to the problems of life. In this retreat from reality, the Nation's drug problem grew dramatically. Residents of our proudest cities were gripped by fear as addicts turned to crime to support their habits, and thousands of families suffered devastating personal tragedies.

I am pleased to be able to report that since then, Federal spending on drug treatment and enforcement have increased tenfold, and progress has been made. We have indeed turned the corner on hard drugs:

—Better drug law enforcement, at home and abroad, has caused an acute heroin shortage throughout much of the country.

—Enough treatment capacity has now been created so that virtually all addicts who want medical help and counselling can get it.

—Our drug abuse indicators all suggest that we have at last succeeded in reducing both the total number of heroin addicts and the number of new addicts.

Nevertheless, the drug battle is far from over.

For the sake of the next generation, I am determined to keep the pressure on—to ensure that the heartening progress made to date is translated into a lasting victory over heroin and other drugs.

As enforcement efforts meet with success in one area of the world, pressure increases on other trafficking routes. To meet these new threats, we will step up our support of joint drug enforcement programs. I have also directed that plans for increased vigilance at our own borders be put into effect.

In the treatment area, we are intensifying our efforts to encourage hard-core addicts to undergo treatment.

To provide added incentive for those not motivated to seek help on their own, I have directed Federal agencies to expand their support for local programs which direct addicts charged with crimes into treatment pending trial and sentencing.

Continued progress will also require help from the Congress:

—I will shortly recommend severe new penalties for both heroin traffickers and those engaged in illegal distribution of other illicit drugs. This legislation will supplement my proposals currently pending before the Congress.

—The Psychotropic Convention, a key international treaty regulating manufactured drugs worldwide, has—after 2½ years—still to be ratified. Affirmative action in this session is of the utmost importance.

I will continue to pursue a balanced approach to the drug problem in the next year by emphasizing both vigorous law enforcement, and treatment and rehabilitation programs to help speed the return of ex-addicts to productive lives in society.

ENHANCING THE ENVIRONMENT

Both our Nation and the world have made imposing strides during recent years in coping with the problems of our national environment. Building upon well-justified concerns, we have created institutions, developed policies and strategies, and deepened public understanding of the problems that face us.

Now we are entering the second phase of environmental action. It may prove to be a more difficult period.

In this second phase, we will be looking at our environmental problems in new ways which are more complex and far-reaching than those to which we have been accustomed. We must be concerned not only with clean air, clean water and wise land use but also with the interaction of these environmental efforts with our need to expand our energy supplies and to maintain general prosperity.

In facing up to these tough, new problems, we can draw strength from the progress we have already made and from the knowledge that there can be no turning back from our general commitment to preserve and enhance the environment in which we live.

Our record over these past five years includes the vigorous enforcement of air quality legislation and of strengthened water quality and pesticide control legislation, the enactment of new authorities to control noise and ocean dumping, regulations to prevent oil and other spills in our ports and waterways, and legislation establishing major new parks, recreation and wilderness areas.

We have also tried to reorganize the Federal structure in ways that are more responsive to environmental needs. The National Environmental Policy Act, passed in 1969, has provided a basis for reform in our Federal agencies and has given citizens a greater opportunity to contribute to environmental decisions. In 1970, I established the Environmental Protection Agency and National Oceanic and Atmospheric Administration to provide more coordinated and vigorous environmental management. Also in that year, I appointed the first Council on Environmental Quality.

PRODUCING RESULTS

The results of our vigorous anti-pollution efforts are now being seen and felt.

In our major cities, levels of dangerous sulfur oxides and particulates have declined, and pollutants from automobiles have been reduced. Water pollution is being conquered, assisted by a massive Federal commitment of over $14 billion in municipal treatment plants during this Administration. Major misuses of pesticides are now under control, and

major sources of noise are being regulated for the first time.

During these five years Federal agencies have acquired over 800,000 additional acres for preservation for future generations, many of them near our heavily-populated urban centers such as New York and San Francisco. In addition, the Legacy of Parks program, which I initiated in 1971, has made massive strides in bringing parks to the people. To date, 400 separate parcels covering almost 60,000 acres of under-utilized Federal lands in all 50 States have been turned over to State and local governments for park and recreational use. Many of them are near congested urban areas. We will continue to expedite transfer of additional surplus properties to State and local governments for park and recreation use.

IMPROVING THE WORLD ENVIRONMENT

On our small planet, pollution knows no boundaries. World concern for the environment is as necessary as it is encouraging. Many significant international actions have been taken in recent years, and the United States can be proud of its leadership.

These actions have included the signing of international conventions to protect endangered species of wildlife, to regulate ocean dumping, to extend the national park concept to the world, and to control marine pollution.

A United Nations Environment Program was established last year. With it, the UN Environment Program Fund came into being, fulfilling a proposal I had made in 1972.

Under the US-USSR Environment Agreement, which I signed in Moscow in May, 1972, Soviet and American scientists and environmentalists have been actively working together on serious environmental problems.

THE CHALLENGE AHEAD

As part of this Administration's continuing effort to conserve outdoor recreation areas, my new budget will propose full funding of the Land and Water Conservation Fund for 1975. Nearly two-thirds will aid State and local governments in acquiring their own recreation lands and facilities. Coupled with the change I have proposed in the formula for allocating funds to the States, this measure would encourage the development of more recreation sites closer to the places where people live and work.

This year we have the unique opportunity and responsibility to determine the future use of enormous land areas in America's last great frontier—Alaska. Last month, in accordance with the Alaska Native Claims Settlement Act, I transmitted to the Congress recommendations that would add 83.47 million acres in Alaska to the National Park, National Forest, Wildlife Refuge and Wild and Scenic Rivers Systems. If the Alaska frontier is thoughtlessly developed, it will be gone forever. But we now have the opportunity to make considered judgments as to the appropriate uses of these outstanding Alaskan lands for the American people of all future generations.

This session of the Congress has before it 17 major natural resources and environment proposals that I have previously submitted, and on which I again recommend action. These include:

—*Department of Energy and Natural Resources:* While I discuss this new department elsewhere in this message, I want to reemphasize that I consider it of cardinal importance in ensuring that complex, interrelated environmental and natural resource issues receive an appropriately wide policy overview and administrative coordination.

—*National Land Use Policy:* Adoption of the National Land Use Policy Act, first proposed in 1971, remains a high priority of my Administration. This legislation would reaffirm that the basic responsibility for land use decisions rests with States and localities—and would provide funds to encourage them to meet their responsibility. I am pleased that the Senate has passed legislation incorporating some of the policies that I proposed. I urge the Congress to pass legislation which would assist States and localities, but which does not inject the Federal Government into their specific land use decisions.

—*Coastal Wetlands:* These environmentally vital wetlands are increasingly threatened by development. My proposed Environmental Protection Tax Act would amend Federal tax laws to discourage the unwise use of these areas, and to enhance our opportunities for sound land use planning within the coastal zone.

—*Wilderness:* Traditionally, we have looked westward for our wilderness areas. Last year, however, I proposed that 16 Eastern areas be designated as "wilderness" and that 37 others be studied for possible wilderness designation.

—*Historic Preservation:* Because we have an irreplaceable historic and architectural heritage, I have proposed an Environmental Protection Tax Act to discourage the demolition of historic structures and to encourage their rehabilitation.

—*Big Thicket National Biological Reserve:* The Big Thicket area of east Texas is a biological crossroads unique in the United States. I am gratified that the House has acted and I urge the Senate promptly to consider my proposal to preserve key segments of the Thicket in a Big Thicket National Biological Reserve.

—*Big Cypress National Fresh Water Reserve:* Protection of the Big Cypress Swamp in Florida is essential to the preservation of the water supply in the Everglades National Park. I have recommended legislation which would authorize the acquisition of over 500,000 acres, enabling us to protect this vital water supply.

—*Public Land Management:* The Secretary of the Interior needs additional authority to protect the environmental values of our public domain lands. I again urge that he be given that authority.

—*Controlling Pollution:* Three of my legislative proposals aimed at controlling pollution have not yet received final Congressional action:

—*Toxic Substances:* New chemicals with unknown environmental effects come into use each year. Authority to test these substances and to restrict their use in the event of danger, while still permitting the orderly marketing of needed chemicals in a timely fashion, is highly desirable.

—*Hazardous Wastes:* Disposal of wastes on land is increasing due to advances in industry and technology and because of our stringent controls on air and water pollution. These wastes can be hazardous to human health and other forms of life. My proposal provides for national standards for treatment and disposal of hazardous waste with primary regulatory responsibility resting with State governments.

—*Safe Drinking Water:* The water we use in our homes should not endanger our health. Under my proposal on safe drinking water, Federal standards would provide health protection by requiring strict limitation of any contaminants in drinking water, but primary enforcement responsibilities would be left to the States. Alternative legislation is now being seriously considered by the Congress which would require unnecessary Federal standards on operating treatment plants, generate a domineering Federal enforcement role, and create several new categorical subsidy programs.

COMMUNITY DEVELOPMENT

Although American communities share many of the challenges of our age, the relative intensity and the particular nature of these challenges vary sharply from one community to another.

The current way of providing most Federal aid to our communities—with each dollar tied to a string pulled and manipulated by a Federal planner—is wrong. Much of the money that pays the Federal planners could better be spent in the local community; the decisions made by the planners could better be made by the people who live on the scene.

In these past few years, we have sought to change the old system. We have recognized that the Federal policy that will work best is one that helps the people of a particular community define their own needs and meet those needs in the way which they consider best. While in this Administration we have tried to be generous, we have also tried to grant communities greater freedom to set their own priorities. Since 1969, we have:

—Spent twice as much money on community development programs as the Federal Government had spent for this purpose in the entire previous history of the Nation.

—Reduced the red tape and arbitrary restrictions on local action that were so much a part of these programs in the past.

—Moved authority for administering community development programs

from Washington to the field, where administrators are more accessible to local officials, and where they can become more familiar with local problems.

—Stepped up Federal support for State and local planning and management, again spending more for this purpose than had been spent in all previous years combined.

As a result, not only have cities received *more* Federal dollars, but they have been able to accomplish *more* with each dollar than before.

Despite this progress, we need a much more sweeping reform than has been possible under existing laws. Therefore, I once again urge passage of *The Better Communities Act*, a $2.3 billion bill which would give local officials new flexibility and provide greater effectiveness in the expenditure of Federal community development funds. This legislation would consolidate seven categorical grant programs into a single program. Funds would be distributed on the basis of need, and then local communities could decide for themselves what projects should come first. Thus we could eliminate a mountainous volume of red tape and allow local government to play a larger role in determining their own destinies.

Two Congresses have now addressed community development legislation. Both of them have agreed, for the most part, with the basic principles and approaches that the Better Communities Act represents. But we have still had no action. Cities and towns that have counted on having this legislation in effect in the next fiscal year now face an uncertain future. I urge the Congress to move ahead as quickly as possible with the Better Communities Act—and I pledge every effort to work out our remaining differences so that our cities and towns can benefit from this program as soon as possible.

I also urge the 93d Congress to pass the *Responsive Government Act* that I submitted last year. This measure would enable State and local officials to improve their planning, decision-making and managerial capabilities through broad-based, flexible grants.

RURAL DEVELOPMENT

Over $12 billion has been invested in rural development through Agriculture Department programs alone during the five years of this Administration. Annual Federal funding for these rural development programs has been tripled during that time. These funds have been spent for:

—Rural housing, where more than $6.4 billion has been provided through 487,000 housing loans.

—Electrification and telephone systems, where over $3 billion has been spent to bring service to 177,000 new rural consumers.

—Water and waste disposal, where some 8,500 loans and grants totaling $1.4 billion have been provided to rural communities for water and waste disposal systems.

—Loans to farmers, who received more than 489,000 loans totaling over $4.2 billion.

In addition to these efforts under Department of Agriculture programs, almost 200 other Federal programs have had a significant impact on rural areas. As a result, rural residents receive as much Federal support per capita as residents of urban areas.

During the past year we have markedly increased our activity on behalf of the Nation's rural residents:

—During 1973, the Rural Development Act was funded for the first time to provide over $750 million in loans and grants to States under procedures which give them a new flexibility in promoting rural industrialization and in improving the quality of rural life.

—An interim rural housing policy was developed, placing greater emphasis on more effectively utilizing existing housing and making Farmers Home Administration programs more responsive to those with the greatest housing needs.

—To ensure continuing Government attention to rural development needs, this Administration has also created both a special Cabinet-level Rural Development Committee and the new post of Assistant Secretary of Agriculture for Rural Development.

As we look to the future patterns of national growth, we must never forget that the prosperity, the vitality and the character of rural America are essential cornerstones of our Nation's balanced growth. It is essential that rural America receive its proper share of our attention—and I am determined that this shall be the case.

HELPING DISASTER VICTIMS

Seldom is swift and effective Government action needed so urgently as when a natural disaster strikes.

Since taking office, I have had to declare over 160 major disasters in 42 States and in 3 territories. In recent years, the amount of Federal assistance given to disaster victims has been greatly expanded, and we have also pressed an intensive effort to provide this aid more equitably and expeditiously.

Since more than 90 percent of all property damage resulting from natural disasters is caused by floods, I was especially pleased by the Congress' approval last year of our proposed Flood Disaster Protection Act, which significantly expands and improves the national flood insurance program.

More remains to be done, however, if we are to meet our basic humanitarian responsibility to those who fall helpless and innocent victims to nature on the rampage. Therefore, I have also proposed a Disaster Preparedness and Assistance Act, which places new emphasis on the essential element of preparedness, while also increasing the role of State and local officials in allocating Federal disaster funds cutting the tangle of red tape. It also provides for the automatic use of Federal resources when major disasters strike, and it includes generous grant features for those individual disaster victims unable to repay Government loans, as well as for communities faced with the task of restoring damaged public facilities.

That natural disasters will continue to strike is certain; the only uncertainty is how well prepared we will be. As a generous and compassionate Nation, we should be prepared to give the victims of these disasters the prompt and effective help they so desperately need.

BETTER HOUSING FOR ALL

As I have stated many times, this Administration will not waver from the Federal commitment first outlined in the Housing Act of 1949: "a decent home and a suitable living environment for every American family."

The state of America's housing will continue to depend on the state of America's economy more than on any other factor. The forces of the marketplace are the forces that count the most—families with sufficient real income and sufficient confidence to create an effective demand for better housing on the one hand, and builders and credit institutions able to respond to that demand on the other.

The Federal Government must play a major supporting role through its actions in the mortgage credit market and its help for low income families who need assistance in obtaining adequate housing.

Last September, as credit for housing was becoming increasingly scarce, the Administration acted to make more credit available to home buyers. Recently, mortgage market conditions have begun to improve. However, to assure continuing improvement, I recently authorized a reduction in the maximum allowable interest rate for mortgages insured by the FHA, the Farmer's Home Administration and VA—a more than $6 billion mortgage insurance program that will assist in financing the construction of up to 200,000 housing units.

These actions should have a favorable impact on housing production. If the anticipated results are not fully achieved I will recommend further action to ensure a reasonable level of production.

In the last 5 years a substantial effort has been made to address the country's housing problems:

—Largely because of a general upswing in the economy, housing production has occurred at record levels.

—FHA mortgage insurance has enabled nearly 3½ million families to purchase homes.

—Over two million units of subsidized housing for low and moderate income families have been approved, more than during the previous 33 years of federally subsidized housing programs.

—Over $1.4 billion has been committed to improving and modernizing existing public housing.

—Subsidies to local housing authorities have grown from $33 million in 1969 to $350 million in 1974.

Even as good housing has become a reality for most Americans, it is clear that important problems still exist. Two are especially significant. First, our credit institutions often encounter problems in providing adequate housing credit. Second, too many low income families are

unable to obtain adequate housing—even as good housing sits vacant in their community. We must help them to meet their needs.

In order to increase the availability of housing for all families, I urge passage during this session of two key measures I have already proposed:

—The Financial Institutions Act to enable savings and loan associations to compete more effectively for funds during periods of tight money, as well as to encourage increased investment in housing through a tax credit on income earned from residential mortgages.

—The Administration's proposed Housing Act which would ease the present tight mortgage credit situation and make homeownership easier in the long term by:

—Authorizing increases in the permissible mortgage amounts eligible for FHA insurance.

—Permitting home buyers to pay market interest rates on FHA and VA insured mortgages, and reducing the cost of buying a home by doing away with the present system of charging points on mortgage loans.

—Authorizing on an experimental basis more flexible repayment plans on FHA insured mortgages.

—Authorizing more flexible interest rates, longer repayment terms and higher amounts for mobile homes and home improvement loans.

This legislation would extend authority for extensive experiments with a new approach—direct cash assistance—for addressing the housing problem of low income American families. Despite the commitment of over $66 billion, evidence has clearly shown that the subsidized housing programs for low income families have not worked well. Instead of programs to treat symptoms, I will continue to press for a longer term solution—which goes to the root of the problem—lack of sufficient income—and which permits the private housing market to work in as efficient a way as possible. Additionally, this legislation would improve the operation of our existing public housing projects, by helping them move to a more effective, efficient and self-sufficient basis of operation.

IMPROVING TRANSPORTATION

The energy crisis has made urgent what once seemed only necessary: the building of a transportation system that permits all Americans to travel efficiently and at reasonable cost.

While some elements of our transportation system—such as the Federal highway network—have been dramatically improved or expanded in the past decade, others—notably the railroads—have fallen into serious difficulties. It is also apparent that our public transit system must be greatly improved within our urban centers. The measures already taken and others which I shall propose this session are particularly important in helping to deal with the energy crisis by encouraging a more sensible utilization of our transportation resources.

During the past four years, several key measures have helped lay the basis for a greatly improved transportation system.

Under the Urban Mass Transportation Act of 1970, we increased annual Federal aid to urban public transportation to $1 billion by 1973—8 times the level of 1968—and in 1973 another $3 billion was made available for the years immediately ahead. For the first time since World War II the downward trend in transit ridership has been reversed, and is now moving upwards. And for the first time, under the provisions of the Federal-Aid Highway Act of 1973, States and localities can now use a portion of their Federal highway funds for public transit purposes.

There has also been improvement of rail passenger service under AMTRAK, a public corporation created by the Rail Passenger Service Act of 1970. After years of steady decline in rail passenger service, the past year saw a 14 percent increase in the number of passengers carried on AMTRAK.

Just this past year, we also went to work to avoid a major rail crisis through passage of the Regional Rail Reorganization Act of 1973, which provides for the restructuring of the bankrupt railroads of the Northeast and Midwest region into a streamlined system. By 1976, we hope that the affected railroads will be able to operate profitably and can survive as producers, not consumers, of tax revenues.

Significant new initiatives have also been taken in airport and airway development, making vitally needed improvements in the merchant marine, and in promoting transportation safety, especially on our Nation's highways.

Clearly, however, there is still much to be done. It is my hope that 1974 will be the year when we make major advances by enacting two critical transportation bills.

One of these proposals, which I will send to the Congress in the near future, would give our communities not only more money but also more freedom to balance their own transportation needs—and it will mark the largest Federal commitment ever to the improvement of public transportation. This bill would increase Federal assistance for metropolitan areas by nearly 50 percent over the level of fiscal year 1974. More than two-thirds of those funds would be allocated by formula to State and local governments and those governments could better determine their own transportation priorities, choosing between construction of highways or public transit systems, or the purchase of buses or rail cars. Additional transit aid would also be made available to rural communities for the first time.

Under this bill resources would also be available for the first time to augment the operating funds for public transportation systems in both urban and rural areas. By permitting Federal resources to be used for operating purposes, this proposal should make it unnecessary to establish a new categorical grant program for transit operating subsidies as is now contemplated in bills before the Congress.

As a second major transportation initiative this year, I shall propose that we modernize the regulatory system governing railroad operations. This legislation would make it easier for railroads to consolidate service on a sustainable basis. It would make changes in the system of rate regulation to allow rail carriers to compete more effectively with one another and with alternative modes of freight transportation. Discriminatory State and local taxation of interstate carriers would be barred. It would also provide $2 billion in Federal loan guarantee authority to finance improvements in rights-of-way, terminal and rail plant facilities, and rolling stock, where necessary, which would be a major step in our effort to improve the Nation's railroad system.

Additional transportation measures I shall soon propose will include:

—Improvements in highway safety through the earmarking of approximately $250 million of the 1975 Federal highway program for the elimination of death traps from the highways—by, for example, improving high-hazard intersections and replacing dangerous bridges. New bonus grants to the States will also be initiated to encourage the adoption of improved safety legislation and to reward States for outstanding safety accomplishments.

—A restructuring of the airport and airway financing system to allocate costs more equitably among the users of our airways and to provide more flexibility in the use of funds.

DISTRICT OF COLUMBIA

Last Christmas Eve, when I signed the new home rule bill into law, the Nation's Capital reached a significant milestone. If the voters of the District accept the proposal in the forthcoming referendum, the city will soon have its first elected mayor and city council in 100 years. In addition to giving the citizens of our Nation's Capital the right to elect their own officials and a greater role in decisions affecting local affairs, the act also transfers to the District functions now carried out in Federal agenices which should rightfully be under local control.

In order to accomplish this transfer of responsibilities to the local government, much work will have to be done. This Administration will make every effort to assist in the transfer and to ensure that it is both timely and effective.

While our attention to the affairs of the District of Columbia has been captured by the transition to home rule, we must not ignore another important task before us. As the city moves into a new era of self-government, it must also prepare for the Nation's celebration of the Bicentennial.

A Federal Bicentennial Task Force has been working to ensure that the Federal Government meets its financial and program commitments in the Nation's Capital. Under the leadership of the Bicentennial Coordination Center, which I established over two years ago, a number of projects are moving forward. The National Visitors' Center, Constitution Gardens, the Eisenhower Civic Center, the Fort Circle Parks, the National Air

and Space Museum and other projects will contribute enormously to the celebration which takes place here in 1976. In addition, the Pennsylvania Avenue Development Corporation will soon present its plan to restore and improve this central, historically important thoroughfare.

During the coming year, I also urge the Congress to take action on pending legislation to create a District of Columbia Development Bank, which would do much to broaden the economic base of the District.

THE BICENTENNIAL

As we near the celebration of America's Bicentennial, which officially begins in March of 1975, the tempo of preparations has picked up. A sound organizational framework has now been established, with the approval by the Congress last year of a new American Revolution Bicentennial Administration. Each of the 50 States, the District of Columbia and the four territories has also established its own Bicentennial Commission to plan and coordinate local Bicentennial projects. Some 370 counties, cities, towns, villages and tribal units have been recognized as Bicentennial Communities, and some 600 applications for this designation are currently being reviewed.

On the Federal level, I have created the Domestic Council Committee on the Bicentennial. This Cabinet-level Committee has approved the goals for Federal participation in the Bicentennial, established an Interagency Bicentennial Task Force, and approved over 200 Bicentennial projects of the Departments and agencies.

The Department of the Interior will complete the development of historically significant National Park sites; the National Foundation on the Arts and the Humanities will support cultural activities relating to the Bicentennial; and many of our other national institutions, such as the Smithsonian Institution, will present special exhibitions across the Nation.

Other nations are actively responding to the "Invitation to the World" that I issued on July 4, 1972 to participate with us in this celebration which is not ours alone, but one which draws on the heritage of every nation from which people have come to our shores.

In celebrating America's Bicentennial, we shall, of course, commemorate our national achievements. We shall honor our celebrated leaders even as we remember those whose contributions were less well known. We shall take stock of our shortcomings and resolve to overcome them.

What we will celebrate most of all in 1976 will be the vitality of the American people. We have tried to ensure that Federal Bicentennial activities reflect the diversity which is ours alone, and which is appearing in community Bicentennial planning across the country.

CULTURE AND COMMUNICATIONS

When I took office in 1969, I was determined to give support to the goal of substantially strengthening the arts and humanities in the United States. The result has been the rapid growth of the National Endowment for the Arts and the National Endowment for the Humanities—which had existed before but at a very low level of activity.

In the current year, the National Endowment for the Arts will spend $60.8 million on a large scale of programs intended to enrich America's cultural present and future. A broad range of individuals as well as institutions, both public and private, are being assisted. And special support is being given to projects which will add to the celebration of our Bicentennial.

The Congress has in the past given strong bipartisan support to the Arts Endowment. That same support will be needed in the future. Increased Federal funds, eliciting greater financial support from the private sector and State and local governments, will ensure the flourishing of American arts in the years ahead.

The National Endowment for the Humanities has likewise made outstanding contributions to the stimulation of our intellectual and cultural life. One measure of the growing importance of its activities is the fact that the Humanities Endowment has a program today which is ten times as large as it was five years ago.

The Humanities Endowment will also play a major role in promoting the Bicentennial and will emphasize activities which reach large numbers of people, such as film and television productions and traveling exhibitions.

In America, television is by far the best means of communicating with the widest audience. To assure the American audience a greater range of television programming of a type not financially feasible for commercial television, we have dramatically increased our support for public television in the last five years.

Public Broadcasting matured during the past year. Both the television and radio licensees reorganized themselves in a way which encouraged a more rational relationship between them and the Corporation for Public Broadcasting, and increased the ability of each local station to provide programs uniquely tailored to their local communities.

Another aspect of electronic media that has recently become a public policy issue is cable television, a development that could lead to a vast expansion of the Nation's communications capabilities. In June of 1971, I established a Cabinet Committee to develop proposals for a comprehensive national policy on cable communications. I have recently received and am now reviewing the report which is the product of that committee. I have also asked the Director of Telecommunications Policy to prepare legislation to move toward the adoption and implementation of a national cable television policy and I expect to submit such legislation to the Congress in the near future. I encourage the Congress to review carefully the issues prescribed by cable television and I especially encourage a widespread national debate on this subject which could play such a major role in all of our lives during the future.

SCIENCE AND TECHNOLOGY

One of the great strengths of this Nation has been its preeminence in science and technology. In times of national peril we have turned to the men and women in the laboratories in universities, Government, and private industry to apply their knowledge to new challenges.

Once again, in the current energy crisis, we are calling upon them to respond. I have outlined, in my recent energy message to the Congress, the first step in a five-year, $10 billion research and development effort in energy: $1.8 billion for direct energy R&D for the coming fiscal year and an additional $216 million for supporting research—a total increase of 80 percent over this year.

A look at the broad scope of this energy effort tells a great deal about our confidence in the capabilities of the Nation's scientists and engineers. We are calling on them to accelerate the development of nuclear power systems, to determine how we can use our abundant supplies of coal in ways that are environmentally acceptable and to improve technology for harnessing natural energy sources such as the sun and the heat of the earth. At the same time, we are asking them to explore new ways of conserving the energy that we already use for everyday conveniences such as our automobiles.

This Administration recognizes that the need for progress in every major area of American life requires technological input. We are therefore committed to giving all our major programs a broad scientific underpinning. The new budget will call for an increase of over 20 percent in civilian research and development expenditures.

In addition to a major increase for energy, research and development funds will be spread across a large number of programs for enhancing the prosperity, well-being, and health of Americans. Science will continue to be vital to our efforts to fight drug abuse, to prevent infant mortality, to combat venereal disease, and to aid in treating mental illness.

We will call upon the services of our scientists and engineers to design better forms of transportation, and to make safer the transportation we already have. We will examine ways of making our vast agricultural establishment yield more food at lower prices, and try to lessen agriculturally-related pollution. We will attempt to develop methods of mining that will not only yield greater mineral wealth but also give the miner greater safety and the landscape greater protection. We will study ways to protect our wildlife from natural and man-made attack, and we will attempt to learn how to protect ourselves from the violence of nature in the form of floods, landslides, earthquakes, tornadoes and other natural calamities.

This Administration recognizes the vital role which the social sciences must play in America's growth. Money will be made available for studying the social effects of various Government income distribution and redistribution plans, such as social security, welfare benefits, health insurance, and varied and experimental educational forms.

In every great area of national endeavor, the Administration will see that

adequate funds for making scientific progress are spent.

That also means we will continue our important efforts in space. The exploration of space is today making a key contribution to man's understanding of his universe and to our abilities to manage our resources on earth wisely. As our Skylab astronauts have proven, space is now an acceptable working environment for man.

While we explore our planetary system, the stars, and the galaxies, we are also using space technology to monitor the earth's environment. The Earth Resources Technology Satellite is allowing us to search for scarce resources from high above the earth. Already, many of our intercontinental communications are by satellite. This year new commercial satellites will also be used for domestic telephone, telegraph, and television services. Satellite weather forecasting is now commonplace as a result of our space efforts.

Space exploration in the future should become more economical as we develop the Space Shuttle, a reusable vehicle for space transportation. A cooperative international aspect of the space program will come with the European developed Spacelab as an integral part of the Shuttle program. In addition, we are now moving full speed ahead with our plans for a joint space venture with the Soviets in 1975.

THE NEW FEDERALISM

Just as rapidly changing and increasing demands placed upon Government have made it necessary to reorganize the Federal structure, they have made it even more imperative to make State and local government stronger and more effective.

During the last four decades, almost every major attempt by the Government to meet a major social need has resulted in a new national program administered in Washington by a new bureaucracy. Forty years ago there were more than 600,000 Federal employees; today there are more than 2.7 million. In the last decade, this problem has grown acute. In 1960 there were some 200 Federal grant-in-aid programs with outlays of $8 billion, but by 1970 there were nearly 1,000 and the total outlays had risen to $22 billion. And in the next fiscal year we expect outlays for grant-in-aid programs to reach $52 billion, even after our substantial efforts to cut their number. This growth in size, power and complexity has made the Federal Government increasingly inaccessible to the individual citizen it seeks to help.

Many of our new national social programs have actually impeded the development of effective local government. By creating a Federal categorical grant system of staggering complexity and diversity we have fostered at the State and local level:

—Overlapping and wasteful programs;
—Distorted budgets and priorities;
—Additional administrative expense;
—Delay and uncertainty; and
—A diminution in the authority and responsibilities of State and local elected officials, as Federal grants have become the special province of competing bureaucracies.

In one of the basic new directions of my Administration, I proposed in 1969 that we create a new and fundamentally different relationship between State and local government, on the one hand, and the Federal Government on the other. This new relationship has come to be known as the New Federalism. As I said in 1969, its purposes are:

—To restore to the States proper rights and roles in the Federal system with a new emphasis on local responsiveness;
—To provide both the encouragement and necessary resources for local and State officials to exercise leadership in solving their own problems;
—To narrow the distance between people and the Government agencies dealing with their problems;
—To restore strength and vigor to State and local governments where elected officials know best the needs and priorities of their own constituents; and
—To shift the balance of political power away from Washington and back to the country and the people.

With the help of both the Congress and the Administration, this new relationship among local, State, and Federal governments has begun to take shape:

—In 1972, the Congress enacted our General Revenue Sharing program, and already more than $11 billion of new money has been put to work in over 38,000 units of State and local government.
—Funding through the Law Enforcement Assistance program has demonstrated the flexibility of the New Federalism in leaving to State and local authorities the decisions on how best to combat crime in their jurisdictions. This program has helped to make America's streets safer for our citizens.
—The Comprehensive Employment and Training Act which I signed into law in 1973 is a landmark example of the New Federalism's broad and more flexible forms of assistance—and it represents a leading example of what can be achieved when the Executive and the Congress team up to enact solid legislation.
—New authorities under the Rural Development Act are being exercised this year in a way which is supportive of State and local development plans and priorities.
—In addition, within the limits of law, we have moved administratively to strengthen the role of State and local governments by simplifying and streamlining Federal grant systems—including procedures for State and local review of project proposals affecting their juridictions, opportunities for grant integration and joint funding, and the decentralization of many Federal activities to ten Federal Regional councils.

In the remaining three years of this term I shall continue to take every sound administrative action within the authorities available to me to support and strengthen State and local government, but we must have the support of the Congress to maintain the progress which has begun. Proposals for furthering the New Federalism now before this body and for which I urge your support include:

—Federal education reforms to consolidate support for elementary and secondary schools as well as vocational and adult programs, and to promote better planning on the local level through advance funding.
—The Better Communities Act, to replace several ineffective and restrictive urban programs with a flexible approach that would allow local officials to make essential decisions on the way community development funds would be spent.
—The Responsive Governments Act, to provide needed Federal assistance for improving State and local planning, decisionmaking and management capabilities. This would help to strengthen the capacity of State and local governments to assume greater responsibility for the administration of their own programs, whether federally assisted or not.
—The Disaster Preparedness Act, to increase the role of State and local officials in allocating Federal disaster funds and to cut the tangle of Federal red tape.

In addition to these proposals now pending, a number of the new initiatives that I describe elsewhere in this message also reflect the principles of new Federalism. These include:

—A new public transportation initiative that would permit States and localities—both urban and rural—to allocate highway and mass transit funds in accordance with local conditions and priorities.
—An economic adjustment assistance program, that would help States and communities to create employment opportunities where they have been affected by structural changes in their economies which have brought about persistent unemployment or depressed incomes.
—In the field of health, a comprehensive health insurance plan which would bring protection against medical expenses within the reach of all our citizens.

MAKING GOVERNMENT WORK BETTER

On taking office five years ago, one of the first needs I sought to address was the organization of the executive branch of Government—for the plain fact is that the only way Government gets anything done is through its organizational structure, and how well it can perform depends in large measure on how well it is organized.

Because the needs of the Nation continue to change, and because the activities of Government must respond to those changes, the patterns of Government organization that might have been fine in the 1930s or even in the 1960s, may be hopelessly out of date in the 1970s. Therefore, early in my first term I established an expert commission to survey the organization of the executive branch and to recommend improvements to meet present-day needs. The reports of this commission contributed significantly to the reorganizations that I or-

dered and that I recommended, including the proposal I put forward three years ago for a sweeping reorganization of the executive branch, consolidating seven of the present Cabinet departments into four new units.

Although this basic restructuring has not been enacted by the Congress, other progress of a substantial nature has been made in modernizing the Government. For example, we have established:

—The United States Postal Service, taking the post office out of politics;
—The Office of Management and Budget, providing a strong management arm to assist in coordinating the functions of the executive branch;
—A restructured National Security Council;
—The Domestic Council to coordinate domestic policy formulation;
—The Council on Environmental Quality, the Environmental Protection Agency, and the National Oceanic and Atmospheric Administration, all to provide leadership in meeting our vital environmental needs;
—The Special Action Office for Drug Abuse Prevention and the Drug Enforcement Administration;
—The Council on Economic Policy, to facilitate the formation and execution of overall economic policy;
—The Council on International Economic Policy, to focus on an area increasingly important both to our foreign relations and to our domestic economy;
—ACTION, to provide stronger coordination and incentives for volunteer activities;
—The Cost of Living Council, to help stabilize prices; and,
—The Federal Disaster Assistance Administration, to help individuals and communities struck by natural disasters.

Each of these reorganization steps was designed to meet a specific need more effectively, or to respond to newly urgent needs. Several were accomplished under the reorganization plan authority which has been available to every President in the last 25 years, but which expired last March. This authority—which is utilized only with the concurrence of the Congress—continues to be necessary in order to keep abreast of changing needs, and I urge that it be reinstituted.

Of special concern today is the reorganization of the Government to meet the energy crisis. I have by Executive Order already established the Federal Energy Office to serve as a focal point for energy actions taken by the Government.

But that office lacks a statutory base and does not have sufficient authority to do the full job. That is why I have asked the Congress to establish the Federal Energy Administration and I once again urge it to act on this matter. Recognizing that this country should no longer remain dependent upon foreign energy sources, I have also urged the creation of an Energy Research and Development Administration to develop the necessary technology to tap new domestic sources of energy and a separate Nuclear Energy Commission to carry on the regulatory activities presently assigned to the Atomic Energy Commission.

While these organizational initiatives are needed now, the best organization to knit together the future energy and natural resource programs of the Federal Government would be a comprehensive Department of Energy and Natural Resources. This concept is consistent with the major Federal departmental reform I submitted to the Congress in 1971. Today, I again urge swift, favorable action by the Congress on this proposal so that we will have the broad organizational base that will ultimately be needed to meet many of our energy needs in the most effective manner and to balance energy and natural resource considerations in the future.

That same consolidation and reorganization of the executive branch that I proposed in 1971 would also have created new departments for community development, human resources and economic affairs. The basic problems of fractionated, sometimes overlapping and often conflicting organizations that prompted these original proposals remain acute today. I therefore urge the Congress to join with me in a serious effort to achieve an effective reorganization in these areas.

In view of the close relationship between food assistance programs and other income security programs, I will also propose new legislation to transfer the food stamp and related programs from the Department of Agriculture to the Department of Health, Education and Welfare.

Another important organizational proposal still awaiting Congressional action is the creation of an independent Legal Service Corporation. My Administration will work closely with the Congress in the weeks ahead to obtain final passage of our proposal which would provide the poor with quality legal representation, would create an organization free from political pressures, and would include safeguards to ensure its responsible operation. Legal services legislation has already passed the House. I am hopeful that reasonable legal services legislation will now be passed by the Senate.

A major new opportunity for better Federal management has been initiated at my direction by the Office of Management and Budget. Frequently termed "management by objective," it involves the identification of specific, high-priority objectives for each year for each of the departments and agencies. During the year, progress in reaching these objectives can be closely measured and reported to agency heads and to me. In the years ahead I expect this technique will help make the Government both more responsive and more accountable.

Nothing is more important to improving the efficiency of our Government than the recruiting of top flight personnel for Federal jobs—including positions in the career civil service. We will be working in the months ahead to ensure that executive compensation, career development and training all attract and hold the best possible personnel in the public service.

The compensation we provide our top officials is integral to these efforts to recruit and retain the best men and women for Government service. Salaries of Federal judges, Members of the Congress, and heads and assistant heads of executive agencies have not been adjusted for 5 years, during which time comparable pay rates in the private sector increased 30 percent and pay for other Federal employees has increased significantly. The report of the Commission on Executive, Legislative and Judicial Salaries notes that this lag in compensation also produces serious salary compression among the top ranks of career employees. I am therefore recommending a three-stage increase in executive, legislative and judicial salaries in the budget, at the rate of 7½ percent annually for each of the next three years. This will make salaries within the top levels of the Federal Government more competitive with industry. And it will help us to make Government work better.

CAMPAIGN REFORM

For several years it has been clear that reforms were needed in the way we elect public officials. The intense public focus placed on the campaign abuses of 1972 has now generated sufficient support for this issue that we now have an opportunity to make a genuine breakthrough.

In a national radio address on May 16 of last year, I announced my proposal for a non-partisan commission on campaign reform. This commission would have reexamined the entire Federal election process to come up with a comprehensive set of legislative recommendations. The Commission would have filed a public report no later than December 1, 1973.

Eight months have now passed since that proposal was submitted to the Congress and the Commission is not even close to being created. If it had been created expeditiously, we would now have its report recommending meaningful reforms for Federal campaigns and as I had originally hoped, those reforms might be in place prior to the 1974 elections.

In light of the delay, I have now decided to submit a comprehensive set of Administration proposals on campaign reform for consideration by the Congress during this session. While I do not believe mine will be the only workable proposals, I do hope they will lead to meaningful debate and reform in this critical area. To that end, I look forward to working with the Congress in a long-overdue effort to clean up the Federal election process.

AMERICA AND THE WORLD

When this Administration took office, it was apparent that the world had changed in fundamental ways, and that America's foreign policy had to change in equally fundamental ways.

We needed to end our military involvement in the Vietnam war in a manner consistent with our responsibilities and commitments as a major world power.

We needed to adjust to the changes in the strategic situation between the Soviet Union and the United States which presented a unique opportunity to build a solid foundation for peace but

which also threatened our own security if that foundation could not be built.

We needed to end a quarter century of hostile isolation which had kept one-fourth of the world's population outside the framework of international cooperation. The world could not afford another generation of hostility between the United States and the People's Republic of China.

We needed to adjust our partnerships with Western Europe and Japan, recognizing their increasing political and economic strength and self-reliance, and emphasizing our important common goals.

We needed to alter the world monetary system to reflect the new realities of the international economic system and America's place in it.

During the past five years we have made striking progress in meeting each of these needs.

CONTINUING RESPONSIBILITY IN VIETNAM

The United States is at peace for the first time in more than a decade. But peace must be something more than the absence of the active engagement of American forces in conflict.

We must guard against the tendency to express relief at our military extrication for Southeast Asia by "washing our hands" of the whole affair. Men and women are still dying there. We still have a responsibility there. We must provide those ravaged lands with the economic assistance needed to stabilize the structures of their societies and make future peace more likely. We must provide, as well, the continued military aid grants required to maintain strong, self-reliant defense forces. And we will continue to insist on full compliance with the terms of the agreements reached in Paris, including a full accounting of all of our men missing in Southeast Asia.

BUILDING NEW RELATIONSHIPS

As we work through detente to reduce conflict in areas of the world where both we and the Soviet Union have important interests, we must also continue to work to reduce the potential causes of conflict between us.

We must persevere in our negotiations with the Soviet Union to place further limits on strategic arms competition and in our talks with the Warsaw Pact nations to reduce forces in Europe in a way that will increase security and stability for all.

We will pursue our relations with the Soviet Union in the climate of detente established two years ago in Moscow and reaffirmed by General Secretary Brezhnev's visit to Washington last year. During the fateful weeks of the Middle East war last October, the strength of our detente was severely tested. Since then, American diplomatic leadership and initiative have played a central role in the search for a final settlement in the long-troubled Middle East. This began with the ceasefire of October 22, worked out with the Soviet Union's assistance, and was later strengthened by the Six-Point Agreement in November to consolidate the ceasefire, then by the Geneva Peace Conference—under the co-sponsorship of the United States and the Soviet Union—and most recently by the agreement on the disengagement of Egyptian and Israeli military forces, which is being implemented in cooperation with the United Nations Emergency Force. These steps are but the beginning of broadened efforts to find a lasting settlement of the area's problems.

The process of building a normal relationship with the People's Republic of China continues. Liaison offices have been established in our respective capitals and there continues to be fruitful contact between our governments at very high levels.

STRENGTHENING OUR FREE WORLD PARTNERSHIPS

As our relationships with old adversaries are changing, so are our relationships with old friends. Western Europe and Japan have put behind them the post-war struggle to rebuild their economies, re-order their societies and re-establish their political force. Their success in these endeavors is something we helped to foster and in which we can take pride. But now times have changed and our past role in their success cannot be the sole basis for a continuing relationship. We must instead adjust our relationships to recognize their new economic capacities and their international political objectives. We must accommodate all of these within the framework of the friendship and goodwill of our allies and our whole past history of cooperation in the pursuit of our common goals. This is a cornerstone of the structure of peace we are seeking to build.

With our closest neighbors, here in the Western Hemisphere, we shall continue to seek additional ways of working cooperatively to solve the problems which face the Americas. Secretary of State Kissinger will be meeting in a few weeks with the foreign ministers of Latin America to begin a new and constructive dialogue in the family of American states.

INTERNATIONAL TRADE AND COMMERCE

As we turn from an era of confrontation to one of cooperation, trade and commerce become more important. We have moved from a position of virtual economic hegemony in the world to a new role in a more interdependent world economy. We must create an equitable and efficient system of integrating our own economy with that of the rest of the world.

Much has already been accomplished on this front. The markets of the USSR and China are now accessible, thereby providing jobs for American workers. Our major trading partners in Western Europe and Japan share our interest in further reducing international trade barriers and increasing world trade. The rigid and outmoded international monetary system which over-valued the dollar and impeded our foreign trade has been decisively altered. After two years of trade deficits, American achieved a trade surplus in 1973.

But we must persevere in our international monetary, investment and trade negotiations. The greatest tasks still lie ahead and the stakes are high. Avoiding the economic and political disruptions associated with international monetary turmoil and restrictive trade and investment practices increases in importance as international interdependence grows.

As I noted earlier in this message, prompt passage of the pending Trade Reform Act is essential to achieving the goal of a less restrictive and more equitable international economic system. In addition, we must move forward with the current negotiations to reform the international payments system under the auspices of the International Monetary Fund, reforms which will markedly increase the opportunities for nations to trade and invest profitably.

We must also strengthen our resolve as the world's most prosperous nation to help less fortunate countries. In the world of today, no nation will be fully secure or prosperous until all nations are. As in the past, we will take pride in our efforts to work with developing nations which aspire to greater economic and social well-being. The United States has called for the World Food Conference which will be held in November under the auspices of the United Nations. We will also actively observe 1974 as World Population Year, as proclaimed by the United Nations.

MAINTAINING A STRONG DEFENSE FORCE

But as we work for peace, we must be conscious that the opportunity to build a structure of peace came because our arms have served as a deterrent to war. We must maintain that deterrent.

In the last five years, outlays for the Department of Defense have been reduced by about ⅓—measured in constant dollars—and military personnel have been cut from 3.5 million to 2.2 million.

This year, I will recommend a substantial increase in the 1975 budget for the Department of Defense. These increases are necessary to improve the readiness of our armed forces, to build up levels of essential equipment and supplies and to preserve present force levels in the face of rising costs.

CONCLUSION

Throughout these five years, I have had one overriding aim: to establish a structure of peace in the world that can free future generations from the scourge of war. Others may have different priorities; this has been and will remain my first priority, the chief legacy that I hope to leave from the eight years of my Presidency.

As we strengthen the peace, we must also continue each year a steady strengthening of our society here at home. Our conscience requires it. Our interests require it. We must insist on it.

As we create more jobs, as we build a better health care system, and improve education; as we develop new sources of energy, as we provide more abundantly for the elderly and the poor, as we strengthen the system of private enterprise that produces our prosperity—as we do all this and more, we solidify those essential bonds that hold us together as a nation. Even more importantly, we advance what in the final analysis government in America is all about: more freedom, more security, a better life, for each

one of the 211 million individual persons who are America.

We cannot afford to neglect progress at home while pursuing peace abroad. But neither can we afford to neglect peace abroad while pursuing progress at home.

With a stable peace, all is possible; without peace, nothing is possible.

Earlier in this message, I comment that "one of the continuing challenges facing us in the legislative process is that of the timing and pacing of our initiatives . . . selecting each year among many worthy projects those that are ripe for action at that time."

What is true in terms of our domestic initiatives is true also in the world. This period we now are in—these few years—presents a juncture of historic forces unique in this century, which provide an opportunity we may never have again to create a structure of peace solid enough to last a lifetime and more—not just peace in our time but peace in our children's time as well. It is on the way we respond to this opportunity, more than anything else, that history will judge whether we in America have met our responsibility.

I have full confidence that we will meet that responsibility.

RICHARD NIXON.

THE WHITE HOUSE, *January 30, 1974.*

At 9 o'clock and 48 minutes p.m., the President of the United States, accompanied by the committee of escort, retired from the Hall of the House of Representatives.

The Doorkeeper escorted the invited guests from the Chamber in the following order:

The members of the President's Cabinet.

The Acting Chief Justice of the United States and the Associate Justices of the Supreme Court.

The ambassadors, ministers, and chargés d'affaires of foreign governments.

JOINT SESSION DISSOLVED

The SPEAKER. The Chair declares the joint session of the two Houses now dissolved.

Accordingly, at 9 o'clock and 55 minutes p.m., the joint session of the two Houses was dissolved.

The Members of the Senate retired to their Chamber.

REFERENCE OF PRESIDENT'S MESSAGE

Mr. ROSE. Mr. Speaker, I move that the message of the President together with the accompanying documents be referred to the Committee of the Whole House on the State of the Union and ordered printed.

The motion was agreed to.

RESIGNATION OF CONFEREE ON THE ENERGY EMERGENCY ACT

The SPEAKER laid before the House the following letter of resignation of a conferee:

JANUARY 30, 1974.

Hon. CARL ALBERT,
Speaker, House of Representatives,
Washington, D.C.

DEAR MR. SPEAKER: The press of business makes it impossible for me to continue as a conferee on S. 2589, the Energy Emergency Act.

Please remove my name from the list of conferees.

With all good wishes,

Sincerely yours,

JOHN D. DINGELL,
Member of Congress.

The SPEAKER. Without objection, the resignation will be accepted.

There was no objection.

The SPEAKER. The Chair appoints to the committee of conference the gentleman from California (Mr. Moss).

The Clerk will notify the Senate of the appointment by the Speaker.

OPEN CAMPAIGN DISCLOSURE A NECESSITY

The SPEAKER. Under a previous order of the House, the gentleman from Utah (Mr. OWENS) is recognized for 10 minutes.

Mr. OWENS. Mr. Speaker, one of the great unfinished tasks of this Congress is the reform of campaign financing laws. Money, secretly collected and secretly used, has corrupted the campaigns and degraded the authorized activities of many elected public officials. In 1973, this corruption became well known. As a result, public confidence in our political system has seriously eroded.

The events of the last 2 years have forcefully demonstrated that money and secrecy have been a corrupting influence in American elections. Millions of dollars were collected in 1972 by the Committee for the Re-Election of the President. Most of it was accumulated without public knowledge. Much of it was extracted in illegal contributions from corporations doing business with, or regulated by the Federal Government.

The enormous amounts of unreported cash provided support for a wide array of abuses and illegal activities we call Watergate. The full impact of these contributions on Government policies might never be known.

Neither party has a monopoly on campaign scandals. Members of my own party in other years have engaged in illegal financing practices.

I believe that the only way to remove the taint of private interest from public affairs and to assure maximum objectivity in Congress is to provide for public financing of Federal election campaigns. The cost to the public would be small—probably less than 50 cents for each American citizen. Returns on this moderate investment in the form of effective and responsible Government performance would be substantial: An objective and uncompromised Congress and Presidency.

Last fall Congress had the opportunity to pass a bill authorizing public campaign financing. I was genuinely disillusioned when many of my friends in Congress joined to defeat the proposal, because the bill would have assured them viable opposition in future campaigns. I am convinced that we must have public campaign financing and that we must provide an equitable opportunity for our opponents to contest our incumbency.

The present law is riddled by loopholes and inadequacy. The raising and spending of large sums without public knowledge of source and recipient is still permitted. Pending passage of any new legislation, I call on all candidates for public office to join me in pledging complete candor and openness in campaign finances. Let the people know who is paying for our campaigns.

In my campaign this year for U.S. Senator, I pledge to follow these self-imposed limitations which conform to and go far beyond the requirements of the law:

First. Every contribution to my campaign in money or in kind, except for purely volunteer assistance, will be reported to the appropriate public offices and released to the public as I did in my 1972 campaign. The occupation of each contributor will be revealed. The present law requires that only contributions over $100 be reported. This has produced the standard technique of donations in multiples of $100.

Second. Every expenditure will be reported to the appropriate public offices and released to the public. The present law does not require public disclosure of all expenditures.

Third. No cash contributions over $50 will be accepted, and all cash contributions will be receipted and reported.

Fourth. I have asked Utah Common Cause to audit both income and expenditures of my campaign on a periodic basis, at whatever frequency they recommend, and to release their findings publicly.

Fifth. I have established one central campaign committee which will disburse all moneys. No other campaign committee will be permitted to spend money on my behalf. All funds collected by any other committee after payment of their own expenses will immediately be turned over to the central committee.

Sixth. If I am nominated by my party, I expect to raise and spend approximately $300,000 during this campaign. To the people of my State, this may seem to be a great deal of money, and it is. However, allowing for inflation, this is about half the amount which committees for each Senate candidate spent in Utah 4 years ago, even though neither faced a primary contest. According to figures released by Common Cause on the last Senate elections, one candidate in Idaho spent $405,000, another in South Dakota spent $427,000, and a third in New Mexico spent $517,000. The fact that $300,000 is probably the minimum amount required to do an effective job underscores the need for limited campaign expenditures financed by tax revenues.

Lastly, I pledge that I will personally supervise all fundraising in my behalf and will take responsibility for the activities of those who are helping me in that task. I reject the fiction that candidates can place themselves above knowledge of those who contribute to their campaign. This is a time-honored escape from accountability, but it is not possible under our system. Any question-

able contribution will be returned to the donor.

All of this public disclosure cannot alone restore public confidence in politicians or the political process. I hope this statement will be interpreted as a good faith effort to prove my campaign will have nothing to hide and to assure Utah voters that campaigns can be conducted openly.

WINDFALL PROFITS IN THE PETROLEUM INDUSTRY

The SPEAKER. Under a previous order of the House, the gentleman from California (Mr. Moss), is recognized for 5 minutes.

Mr. MOSS. Mr. Speaker, American consumers took a beating in the U.S. Senate yesterday.

The decision to recommit the Emergency Energy Act to conference was a victory for the oil industry and a defeat for the consumer. Profits of the major oil companies rose in excess of 50 percent in 1973. A similar increase is in prospect for 1974. The administration, which is supposed to protect the American consumer against inequitable petroleum price increases, predicts another 10 cents per gallon rise in the price of gasoline by March and comparable increases in the price of home heating oil. This translates into $10 to $15 billion annually in windfall profits for the petroleum industry.

Some of those who voted to recommit the Emergency Energy Act yesterday claimed this was necessary, because the provision forbidding windfall profits was unworkable. To the American consumer it must be ludicrous that legions of tax lawyers and accountants can successfully master thousands of pages of largely incomprehensible Internal Revenue code provisions providing deductions, credits, and assorted other benefits to special interests, but when it comes to a provision which would refund windfall profits to the consumer, these alleged experts throw up their hands and claim it is unworkable. Emergency Energy Act restriction on windfall profits was and is workable—workable on behalf of the American consumer.

The following letter, which was sent to Senator JACKSON and several other Senators prior to yesterday's vote by myself, Representative JOHN DINGELL and Representative WILLIAM ROY, describes why we believe the restriction on windfall profits was and is in the public interest:

JANUARY 29, 1974.

Hon. HENRY M. JACKSON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR JACKSON: We are writing in connection with the Emergency Energy Act which we understand will be considered by the Senate today.

Among the most important parts of the Conference Report are Section 110, prohibiting windfall profits; Section 124, requiring public disclosure of reserve and production data on petroleum products; and Section 103, directing the Federal Energy Administration to submit budget estimates and legislative recommendations simultaneously to Congress and the Office of Management and Budget.

We particularly want to comment on the windfall profits section. We believe the section incorporates many innovative procedures. They will operate effectively to limit excess profits in the petroleum industry at a time when American consumers are paying sharply increased prices for gasoline and home heating oil and when profits of the major oil companies have increased in the range of 50% during the past year. There is obviously a need for legislation insuring that the burdens of the energy crisis will be shared equitably by all Americans.

1. It has been argued by some that the standard for determining what is a "windfall profit" is indefinite. We disagree. Section 110 of the Conference Report provides an absolute ceiling on oil industry profits for the next year and four months. That ceiling is the average profit from 1967–1971 of the individual company, or for the petroleum industry, whichever is higher. Thus, petroleum companies can know in advance specifically what profits are permissible and what profits are subject to refund under the terms of the Act.

2. It has been argued that a tax on windfall profits would inhibit investment in the petroleum industry and the development of new sources of energy. We do not agree. The restriction on windfall profits applies only after allowances for all necessary exploration costs. Thus it will not in any way limit the reasonable expenditures of any company seeking to expand its capacity to produce oil and gas. Furthermore, the major oil producers have not experienced difficulty in raising new equity capital. Even during the period from 1967–1972 when the industry claims its profits were low, virtually every debt and equity offering was promptly and completely subscribed.

3. It has also been asserted that Section 110 will be difficult for the Renegotiation Board and the Courts to implement and that delays will ensue. Those who have made this argument obviously have not read the section carefully. The Renegotiation Board has subpoena power which would enable it to obtain necessary information promptly. Furthermore, the Board is authorized to establish an escrow fund appropriate to "assure that sufficient funds will be available for the refund of windfall profits. . . ." With such a provision in the law there will be no incentive for delay by the oil companies, since the excessive portion of their profits will be in escrow pending a final determination. No excess profits tax in the past has ever included such a provision and examples of delays involved in the administration of such provisions are inapplicable to Section 110. It should be noted that the "interested persons" who may bring a proceeding include the United States or any State government. The Board is given authority to tailor equitable relief in a manner appropriate to refund the windfall profits to the public. Included might be reductions in price to purchasers in specific geographic areas. Our courts and administrative agencies have, in the past, shown great ability to devise remedies to protect the public. We believe they can and will act similarly in this case.

Finally, it is important to note that Section 110 of the Conference Report is *not* an excess profits tax provision. It is a "Prohibition on Windfall Profits." Section 110 directs the President to specify prices to avoid windfall profits in the first instance and provides a remedy for individual citizens should the President fail to execute the law appropriately. This is the fundamental difference between the Administration's excess profits tax proposal and the windfall profits prohibition of the Emergency Energy Act.

We wish to commend you on your past efforts to meet the energy problems of our nation and protect American consumers. We hope you will have similar success with the Emergency Energy Act.

Sincerely,

JOHN E. MOSS,
JOHN D. DINGELL,
WILLIAM R. ROY,
Members of Congress.

GENERAL LEAVE

Mr. ROSE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks on the subject of the special order of Mr. FLOOD.

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

There was no objection.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows to:

Mr. FUQUA, for January 31 and February 4, on account of committee business.

Mr. RONCALIO of Wyoming, for January 29 and January 30, on account of official business, at the request of Mr. O'NEILL.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. VEYSEY), to revise and extend their remarks, and to include extraneous matter:)

Mr. YOUNG of Alaska, today, for 5 minutes.

Mr. RAILSBACK, today, for 5 minutes.

Mr. MCDADE, today, for 5 minutes.

Mr. EDWARDS of Alabama, today, for 5 minutes.

Mr. BAUMAN, today, for 5 minutes.

(The following Members (at the request of Mr. BRECKINRIDGE) and to revise and extend their remarks and include extraneous matter:)

Mr. LEGGETT, today, for 30 minutes.

Mr. GONZALEZ, today, for 5 minutes.

Mr. FUQUA, today, for 5 minutes.

Mr. MURPHY of Illinois, today, for 5 minutes.

Mr. MORGAN, today, for 5 minutes.

Mr. DENT, today, for 5 minutes.

Mr. BURKE of Massachusetts, today, for 5 minutes.

(The following Members (at the request of Mr. ROSE) and to revise and extend their remarks and include extraneous matter:)

Mr. OWENS, today, for 10 minutes.

Mr. Moss, today, for 5 minutes.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. SMITH of Iowa and to include extraneous matter.

Mr. YOUNG of Alaska and to include extraneous matter notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $5,016.

(The following Members (at the request of Mr. VEYSEY), and to include extraneous matter:)

Mr. BURKE of Florida.
Mr. RONCALLO of New York in two instances.
Mr. LANDGREBE in 10 instances.
Mr. DERWINSKI in two instances.
Mr. O'BRIEN in two instances.
Mr. MCKINNEY.
Mr. ARCHER in two instances.
Mr. GOLDWATER.
Mr. BURGENER.
Mr. LUJAN in two instances.
Mr. TALCOTT.
Mr. HANRAHAN in five instances.
Mr. WYMAN in two instances.
Mr. HUBER.
Mr. ERLENBORN.
Mr. MCDADE.
Mr. SYMMS.
Mr. ASHBROOK in three instances.
Mr. ROBISON of New York.
Mr. CRONIN in two instances.
Mr. PRITCHARD.

(The following Members (at the request of Mr. ABDNOR) and to include extraneous matter:)

Mr. DICKINSON.
Mr. MCCLORY in two instances.
Mr. CAMP.

(The following Members (at the request of Mr. BRECKINRIDGE) and to include extraneous matter:)

Mr. HARRINGTON in three instances.
Mr. BADILLO in three instances.
Mr. ROSTENKOWSKI.
Mr. REUSS in five instances.
Mr. GONZALEZ in three instances.
Mr. RARICK in three instances.
Mr. RIEGLE in three instances.
Mr. LEGGETT.
Mr. STUDDS in three instances.
Ms. HOLTZMAN.
Mr. COTTER in 10 instances.
Mr. KAZEN.
Mr. STEED.
Mr. HUNGATE.
Mr. ROUSH in three instances.
Mr. DAN DANIEL.
Mr. ROGERS in five instances.
Mr. VANIK in five instances.
Mr. JAMES V. STANTON.

(The following Members (at the request of Mr. ROSE) and to include extraneous matter:)

Mr. YATRON.
Mr. OWENS in 10 instances.
Mr. BLATNIK in five instances.
Mr. ROE in three instances.
Mr. ANDREWS of North Carolina.

ADJOURNMENT

Mr. ROSE. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to: accordingly (at 9 o'clock and 57 minutes p.m.), the House adjourned until tomorrow, Thursday, January 31, 1974, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

1790. Under clause 2 of rule XXIV, a letter from the Chairman, National Commission on Libraries and Information Science, transmitting the second annual report of the Commission, pursuant to section 5(a)(7) of Public Law 91-345, as amended; to the Committee on Education and Labor.

PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ADAMS:

H.R. 12389. A bill to amend the District of Columbia Self-Government and Governmental Reorganization Act to provide for an advisory referendum on the Eisenhower Memorial Bicentennial Civic Center; to the Committee on the District of Columbia.

By Mr. BAUMAN:

H.R. 12390. A bill to repeal the Emergency Daylight Saving Time Energy Conservation Act of 1973; to the Committee on Interstate and Foreign Commerce.

By Mr. BENNETT:

H.R. 12391. A bill to amend section 232 of the Trade Expansion Act of 1962 in order to prohibit the imposition under the authority of that section of duties, taxes, or fees on the importation of petroleum and petroleum products, and for other purposes; to the Committee on Ways and Means.

By Mr. BLATNIK (for himself, Mr. FRASER, and Mr. NELSEN):

H.R. 12392. A bill relating to the practice of psychology in the District of Columbia; to the Committee on the District of Columbia.

By Mr. BYRON:

H.R. 12393. A bill to provide scholarships for the dependent children of public safety officers who are the victims of homicide while performing their official duties, and for other purposes; to the Committee on Education and Labor.

By Mr. BYRON (for himself and Mr. LANDGREBE):

H.R. 12394. A bill to encourage the preservation of open lands in or near urban areas by amending the Internal Revenue Code of 1954 to provide that real property which is farmland, woodland, or open scenic land and forms part of an estate shall be valued, for estate tax purposes, at its value as farmland if it continues to be used as such; to the Committee on Ways and Means.

By Mr. CARNEY of Ohio:

H.R. 12395. A bill to repeal the Emergency Daylight Saving Time Energy Conservation Act of 1973; to the Committee on Interstate and Foreign Commerce.

By Mr. DENT:

H.R. 12396. A bill to amend title 38 of the United States Code to provide that veterans' pension and compensation will not be reduced as a result of certain increases in monthly social security benefits; to the Committee on Veterans' Affairs.

By Mr. FRASER:

H.R. 12397. A bill to protect the constitutional rights of professional athletes; to the Committee on the Judiciary.

By Mr. FRENZEL:

H.R. 12398. A bill to improve the quality, reliability, and usefulness of data on urban mass transportation systems and on other urban transport operations, systems, and services; to the Committee on Banking and Currency.

By Mr. FUQUA:

H.R. 12399. A bill to amend the Small Business Act to provide loans for making payments on mortgages to small businesses adversely affected by the energy crisis; to the Committee on Banking and Currency.

By Mr. GILMAN:

H.R. 12400. A bill to amend the Export Administration Act of 1969 by establishing a temporary embargo on the exportation of wheat; to the Committee on Banking and Currency.

By Mr. GONZALEZ:

H.R. 12401. A bill to provide for the compensation of persons injured by certain criminal acts, and for other purposes; to the Committee on the Judiciary.

By Mr. GUNTER:

H.R. 12402. A bill to provide for the termination of certain oil and gas leases granted with respect to land located in the Ocala National Forest; to the Committee on Interior and Insular Affairs.

By Mr. GREEN of Pennsylvania:

H.R. 12403. A bill to authorize the Administrator of the Federal Energy Administration to obtain certain information with respect to current supplies of crude oil and petroleum products; to the Committee on Interstate and Foreign Commerce.

By Mr. HANSEN of Idaho:

H.R. 12404. A bill to prohibit discrimination on account of sex or marital status against individuals seeking credit; to the Committee on Banking and Currency.

By Mr. HÉBERT (for himself and Mr. BRAY) (by request):

H.R. 12405. A bill to amend titles 10 and 37, United States Code, relating to the appointment, promotion, separation, and retirement of members of the Armed Forces, and for other purposes; to the Committee on Armed Services.

By Mr. KEMP:

H.R. 12406. A bill to amend title II of the Social Security Act so as to remove the limitation upon the amount of outside income which an individual may earn while receiving benefits thereunder; to the Committee on Ways and Means.

By Mr. KETCHUM:

H.R. 12407. A bill to amend title XI of the Social Security Act to repeal the recently added provision of the establishment of Professional Standards Review Organizations to review services covered under the medicare and medicaid programs; to the Committee on Ways and Means.

By Mr. KOCH:

H.R. 12408. A bill to amend the Internal Revenue Code of 1954 to provide that the percentage depletion method may be used only for oil and gas wells located in the United States or adjacent to the North American Continent; to the Committee on Ways and Means.

By Mr. LUJAN:

H.R. 12409. A bill relating to the public lands of the United States; to the Committee on Interior and Insular Affairs.

By Mr. MCDADE:

H.R. 12410. A bill to amend title XVIII of the Social Security Act to authorize payment under the supplementary medical insurance program for home hemodialysis performed by a nurse or health aide; to the Committee on Ways and Means.

By Mr. MILLER:

H.R. 12411. A bill to repeal the Emergency Daylight Saving Time Energy Conservation Act of 1973; to the Committee on Interstate and Foreign Commerce.

By Mr. MORGAN (by request):

H.R. 12412. A bill to amend the Foreign Assistance Act of 1961 to authorize an appropriation to provide disaster relief, rehabilitation, and reconstruction assistance to Pakistan, Nicaragua, and the Sahelian nations of Africa; to the Committee on Foreign Affairs.

By Mr. MURPHY of Illinois (for himself, Mr. MADDEN, Mr. KLUCZYNSKI, Mr. GRAY, Mr. ROSTENKOWSKI, Mr. DERWINSKI, Mr. METCALFE, Mr. THONE, Mr. YATES, and Mrs. COLLINS of Illinois):

H.R. 12413. A bill to amend section 401(j) of the Federal Aviation Act of 1958 to provide that no air carrier shall discontinue service, in whole or in part, unless such discontinuance is found to be in the public interest by the Civil Aeronautics Board after public hearings; to the Committee on Interstate and Foreign Commerce.

By Mr. NELSEN:

H.R. 12414. A bill to amend the Federal Food, Drug, and Cosmetic Act to provide increased assurance against adulterated or misbranded food; to the Committee on Interstate and Foreign Commerce.

By Mr. REUSS:

H.R. 12415. A bill to amend title 38 of the United States Code to increase the unearned income limitation governing the payment of pensions to certain children of deceased veterans; to the Committee on Veterans' Affairs.

By Mr. RIEGLE:

H.R. 12416. A bill to amend the Natural Gas Act to secure adequate and reliable supplies of natural gas and oil at the lowest reasonable cost to the consumer, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. ROGERS (for himself, Mr. SATTERFIELD, Mr. KYROS, Mr. PREYER, Mr. SYMINGTON, Mr. ROY, Mr. NELSEN, Mr. CARTER, Mr. HASTINGS, Mr. HEINZ, Mr. HUDNUT, Mr. VANDER JAGT, and Mr. STEIGER of Wisconsin):

H.R. 12417. A bill to require the development of a long-range plan to advance the national attack on diabetes mellitus, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. ROONEY of Pennsylvania (for himself and Mr. ECKHARDT):

H.R. 12418. A bill to amend the National Traffic and Motor Vehicle Safety Act of 1966 to provide improved enforcement of motor carrier safety regulations by the Secretary of Transportation; to protect motor carrier employees against discrimination for reporting violations of such regulations; and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. ROSTENKOWSKI:

H.R. 12419. A bill to amend section 4216 (b) of the Internal Revenue Code of 1954 to provide a special rule for determining constructive sale price in the case of automotive parts; to the Committee on Ways and Means.

By Mr. ROY:

H.R. 12420. A bill to repeal the Emergency Daylight Saving Time Energy Conservation Act of 1973; to the Committee on Interstate and Foreign Commerce.

By Mr. ST GERMAIN:

H.R. 12421. A bill to increase the availability of urgently needed mortgage credit for the financing of housing, and for other purposes; to the Committee on Banking and Currency.

By Mr. SMITH of New York:

H.R. 12422. A bill to amend section 403(b) of the Federal Aviation Act of 1958 to permit the continuation and family fares and to authorize reduced-rate transportation for young people and for elderly people on a space-available basis; to the Committee on Interstate and Foreign Commerce.

By Mr. JAMES V. STANTON (for himself, Mr. ROSTENKOWSKI, Ms. ABZUG, Mr. ASHLEY, Mr. ASPIN, Mrs. BOGGS, Mr. BROWN of California, Mr. CARNEY of Ohio, Mrs. CHISHOLM, Mrs. COLLINS of Illinois, Mr. CONTE, Mr. CONYERS, Mr. CRONIN, Mr. DAN DANIEL, Mr. DAVIS of South Carolina, Mr. DUNCAN, Mr. FORD, Mr. FORSYTHE, Mr. HARRINGTON, Mr. HECHLER of West Virginia, Mr. HELSTOSKI, Mr. HOWARD, Mr. ICHORD, Mr. JOHNSON of Pennsylvania, and Mr. JONES of Oklahoma):

H.R. 12423. A bill to amend the Internal Revenue Code of 1954 to provide for income averaging in the event of downward fluctuations in income; to the Committee on Ways and Means.

By Mr. JAMES V. STANTON (for himself, Mr. ROSTENKOWSKI, Ms. JORDAN, Mr. KOCH, Mr. LEHMAN, Mr. MADDEN, Mr. MALLARY, Mr. MITCHELL of New York, Mr. MITCHELL of Maryland, Mr. MOAKLEY, Mr. MOSHER, Mr. MOSS, Mr. MURPHY of Illinois, Mr. NIX, Mr. O'BRIEN, Mr. PEPPER, Mr. PODELL, Mr. RIEGLE, Mr. SANDMAN, Mr. SARBANES, Ms. SCHROEDER, Mr. SEIBERLING, Mr. SISK, Mr. SLACK, and Mr. STARK):

H.R. 12424. A bill to amend the Internal Revenue Code of 1954 to provide for income averaging in the event of downward fluctuations in income; to the Committee on Ways and Means.

By Mr. JAMES V. STANTON (for himself, Mr. ROSTENKOWSKI, Mr. THOMPSON of New Jersey, Mr. TIERNAN, Mr. TREEN, Mr. WALDIE, Mr. WHITE, Mr. WHITEHURST, Mr. CHARLES H. WILSON of California, Mr. WINN, Mr. YATRON, Mr. YOUNG of Georgia, and Mr. WOLFF):

H.R. 12425. A bill to amend the Internal Revenue Code of 1954 to provide for income averaging in the event of downward fluctuations in income; to the Committee on Ways and Means.

By Mr. STEIGER of Arizona:

H.R. 12426. A bill to further the economic advancement and general welfare of the various Indian tribes; to the Committee on Interior and Insular Affairs.

By Mrs. SULLIVAN (for herself and Mr. GROVER):

H.R. 12427. A bill to amend section 510 of the Merchant Marine Act, 1936; to the Committee on Merchant Marine and Fisheries.

H.R. 12428. A bill to amend the Shipping Act, 1916, in order to facilitate intermodal transportation, and for other purposes; to the Committee on Merchant Marine and Fisheries.

H.R. 12429. A bill to amend the Shipping Act, 1916, in order to facilitate intermodal transportation, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. VANIK (for himself, Mr. ECKHARDT, Mr. MOSS, Mr. ADDABBO, Mr. BADILLO, Mr. BENNETT, Mr. BOLAND, Mr. BRASCO, Mr. BROWN of California, Mrs. BURKE of California, Mr. CARNEY of Ohio, Mrs. CHISHOLM, Mr. CLAY, Mr. COTTER, Mr. DELLUMS, Mr. DENT, Mr. DRINAN, Mr. DULSKI, Mr. EDWARDS of California, Mr. EILBERG, Mr. EVINS of Tennessee, Mr. FAUNTROY, Mr. FROEHLICH, Mrs. GRASSO, and Mr. GUDE):

H.R. 12430. A bill to amend the Internal revenue Code of 1954 to eliminate in the case of any oil or gas well located outside the United States, the percentage depletion allowance and the option to deduct intangible drilling and development costs, and to deny a foreign tax credit with respect to the income derived from any such well; to the Committee on Ways and Means.

By Mr. VANIK (for himself, Mr. HARRINGTON, Mr. HELSTOSKI, Mr. KASTENMEIER, Mr. LEGGETT, Mr. LEHMAN, Mr. MAZZOLI, Mr. MEEDS, Mr. METCALFE, Mr. MINISH, Mrs. MINK, Mr. MITCHELL of New York, Mr. NEDZI, Mr. NIX, Mr. OBEY, Mr. PEPPER, Mr. PODELL, Mr. REES, Mr. RODINO, Mr. ROUSH, Mr. ROYBAL, Mr. RYAN, Mr. ST GERMAIN, Mr. SARBANES, and Mrs. SCHROEDER):

H.R. 12431. A bill to amend the Internal Revenue Code of 1954 to eliminate, in case of any oil or gas well located outside the United States, the percentage depletion allowance and the option to deduct intangible drilling and development costs, and to deny a foreign tax credit with respect to the income derived from any such well; to the Committee on Ways and Means.

By Mr. VANIK (for himself, Mr. STUDDS, Mr. THOMPSON of New Jersey, Mr. TIERNAN, Mr. WALDIE, Mr. CHARLES H. WILSON of California, Mr. WON PAT, Mr. YATES, Mr. HANRAHAN, and Mr. STARK):

H.R. 12432. A bill to amend the Internal Revenue Code of 1954 to eliminate, in case of any oil or gas well located outside the United States, the percentage depletion allowance and the option to deduct intangible drilling and development costs, and to deny a foreign tax credit with respect to the income derived from any such well; to the Committee on Ways and Means.

By Mr. CHARLES H. WILSON of California:

H.R. 12433. A bill to amend the Community Mental Health Centers Act to revise the various programs of assistance authorized by that act and to extend it to the fiscal year 1976; to the Committee on Interstate and Foreign Commerce.

By Mr. BOLAND (for himself, Mr. BURKE of Massachusetts, Mrs. GRASSO, Mr. KYROS, Mr. DONOHUE, and Mr. ST GERMAIN):

H.R. 12434. A bill to amend the Natural Gas Act to secure adequate and reliable supplies of natural gas and oil at the lowest reasonable cost to the consumer, and for other purposes; to the committee on Interstate and Foreign Commerce.

By Mr. DENT (for himself, Mr. PERKINS, and Mr. DOMINICK V. DANIELS):

H.R. 12435. A bill to amend the Fair Labor Standards Act of 1938 to increase the minimum wage rates under that act, to expand the coverage of that act, and for other purposes; to the Committee on Education and Labor.

By Mr. FISHER:

H.R. 12436. A bill to repeal the Emergency Daylight Saving Time Energy Conservation Act of 1973; to the Committee on Interstate and Foreign Commerce.

By Mr. FROEHLICH:

H.R. 12437. A bill to further the conduct of research, development, and commercial demonstrations in geothermal energy technologies, to direct the National Science Foundation to fund basic and applied research relating to geothermal energy, and to direct the National Aeronautics and Space Administration to carry out a program of demonstrations in technologies for commercial utilization of geothermal resources including hot dry rock and geopressured fields; to the Committee on Science and Astronautics.

By Mr. HARSHA:

H.R. 12438. A bill to repeal the Emergency Daylight Saving Time Energy Conservation Act of 1973; to the Committee on Interstate and Foreign Commerce.

H.R. 12439. A bill to amend section 4 of the Emergency Petroleum Allocation Act of 1973 to direct the President to establish ceiling prices on petroleum and related goods; to the Committee on Interstate and Foreign Commerce.

By Mr. HEINZ:

H.R. 12440. A bill to require the development of a long-range plan to advance the national attack on diabetes mellitus, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. QUILLEN:

H.R. 12441. A bill to amend title II of the Social Security Act to establish more effective procedures for the conduct of hearings, and the appointment of hearing examiners, with respect to claims under such title or title XVIII of such act; to the Committee on Ways and Means.

H.R. 12442. A bill to repeal the Occupational Safety and Health Act; to the Committee on Education and Labor.

By Mr. RONCALLO of New York:

H.R. 12443. A bill to amend title 18 of the United States Code to permit the mailing, broadcasting, or televising of lottery information and the transportation, mailing, and advertising of lottery tickets or any other materials concerning lotteries in interstate

commerce, but only with respect to lotteries which are lawful in the State in which conducted; to the Committee on the Judiciary.

By Mr. WALDIE:

H.R. 12444. A bill to authorize pay and benefits for members and survivors of members of the Philippine Scouts on the same basis as such pay and benefits are authorized for other members of the Armed Forces and their survivors; to the Committee on Armed Services.

By Mr. BADILLO (for himself, Mr. MATSUNAGA, Mr. STEELE, Mr. BROWN of California, Mr. BREAUX, Mr. CONYERS, Mr. ADDABBO, Mr. RANGEL, Mr. BELL, Mr. ROE, Mr. HARRINGTON, Mr. CORMAN, Mr. DOMINICK V. DANIELS, Mr. WALDIE, Mr. THOMPSON of New Jersey, Mrs. MINK, Mr. EDWARDS of California, Mr. STARK, Mr. RAILSBACK, Mr. FRASER, Mr. WHITE, Mr. BRASCO, Mr. HELSTOSKI, Mr. DULSKI, and Mr. ANDERSON of California):

H.J. Res. 883. Joint resolution: proclamation of Bilingual Education Week; to the Committee on the Judiciary.

By Mr. BADILLO (for himself and Mr. CHARLES H. WILSON of California):

H.J. Res. 884. Joint resolution: proclamation of Bilingual Education Week; to the Committee on the Judiciary.

By Mr. KEMP:

H.J. Res. 885. Joint resolution to authorize the President to designate April 30, as "Honor Our Nation Day"; to the Committee on the Judiciary.

By Mr. KETCHUM (for himself, Mr. MICHEL, Mrs. BURKE of California, Mr. GOLDWATER, Mr. MATSUNAGA, Mr. HECKLER of Massachusetts, Mr. BIESTER, and Mr. EDWARDS of California):

H.J. Res. 886. Joint resolution authorizing increased production of petroleum from the Elk Hills Naval Petroleum Reserve for national defense purposes; to the Committee on Armed Services.

By Mr. RIEGLE:

H.J. Res. 887. Joint resolution to authorize and request the President to issue a proclamation designating the calendar week beginning April 21, 1974, as National Volunteer Week; to the Committee on the Judiciary.

By Mr. SIKES:

H.J. Res. 888. Joint resolution asking the President of the United States to declare the fourth Saturday of each September "National Hunting and Fishing Day"; to the Committee on the Judiciary.

By Mr. GONZALEZ:

H. Con. Res. 419. Concurrent resolution expressing the sense of Congress that housing, housing assistance, and community development programs authorized by Congress should be carried out at levels at least equal to the levels prevailing in calendar year 1972, until such time as funds appropriated for such programs are exhausted or the Congress enacts legislation terminating or replacing such programs; to the Committee on Banking and Currency.

By Mr. GREEN of Pennsylvania:

H. Res. 798. Resolution to direct the Interstate and Foreign Commerce Committee of the House of Representatives to conduct an investigation of the causes and conditions of the current petroleum shortages; to the Committee on Rules.

By Mr. ICHORD (for himself, Mr. ASPIN, Mr. DENT, Mr. HARRINGTON, Mr. DAN DANIEL, Mr. CRONIN, Mr. HINSHAW, Mr. NEDZI, Mr. RUTH, Mr. DULSKI, Mr. TAYLOR of Missouri, Mr. TREEN, Mr. GOODLING, Mr. ALEXANDER, Mr. HENDERSON, Mr. HECHLER of West Virginia, Mr. KETCHUM, Mr. GINN, Mr. MCKINNEY, Mr. ADDABBO, Mr. SPENCE, Mr. HILLIS, Mr. MCCORMACK Mr. LENT, and Mr. ANNUNZIO):

H. Res. 799. Resolution declaring the sense of the House with respect to prohibition of extension of credit by the Export-Import Bank of the United States; to the Committee on Banking and Currency.

By Mr. PATMAN (for himself, Mr. BARRETT, Mrs. SULLIVAN, Mr. ASHLEY, Mr. STEPHENS, Mr. ST GERMAIN, Mr. GONZALEZ, and Mr. MINISH):

H. Res. 800. Resolution to provide additional funds for the expenses of studies, investigations, and inquiries authorized by House Resolution 18; to the Committee on House Administration.

By Mr. STEELE:

H. Res. 801. Resolution expressing the support of the House for the formation of an Organization of Petroleum Consuming Nations; to the Committee on Foreign Affairs.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. ASHBROOK:

H.R. 12445. A bill for the relief of Valery Chalidze; to the Committee on the Judiciary.

By Mr. ASPIN:

H.R. 12446. A bill for the relief of Do Thi Nguyet Anh; to the Committee on the Judiciary.

By Mrs. BOGGS:

H.R. 12447. A bill for the relief of Airlift International, Inc., and Slick Corp.; to the Committee on the Judiciary.

By Mr. BURTON:

H.R. 12448. A bill for the relief of Mildred Del Carmen Galtan Tijerino; to the Committee on the Judiciary.

By Mr. LEGGETT:

H.R. 12449. A bill for the relief of Candido Badua; to the Committee on the Judiciary.

By Mr. ROY:

H.R. 12450. A bill for the relief of Mr. Sawkat Anwer; to the Committee on the Judiciary.

By Mr. SMITH of New York:

H.R. 12451. A bill for the relief of the Lockport Canning Co.; to the Committee on the Judiciary.

By Mr. YOUNG of Alaska:

H.R. 12452. A bill to authorize and direct the Secretary of the Department under which the U.S. Coast Guard is operating to cause the vessel *Miss Keku*, owned by Clarence Jackson, of Juneau, Alaska, to be documented as a vessel of the United States so as to be entitled to engage in coastwise trade and the American fisheries; to the Committee on Merchant Marine and Fisheries.

PETITIONS, ETC.

Under clause 1 of rule XXII,

388. The SPEAKER presented a petition of Hon. Malcolm M. Lucas and the other active judges of the U.S. District Court for the Central District of California, Los Angeles, relative to the report of the Commission on Revision of the Federal Court Appellate System; to the Committee on the Judiciary.

EXTENSIONS OF REMARKS

MY CHILDREN ARE ORDINARY

HON. JACOB K. JAVITS

OF NEW YORK

IN THE SENATE OF THE UNITED STATES

Wednesday, January 30, 1974

Mr. JAVITS. Mr. President, it is too often the nature of things that the aberrations of behavior grab the daily headlines, which tends to give a distorted view of events. It is for this reason that I am especially pleased to bring to the attention of this body an article which appeared in the January 6 issue of the New York Teacher, the publication of New York State United Teachers. This article was written by Ms. Judi Silverman, a teacher at public school 127 in the East Elmhurst section of Queens, New York City. It is heartening and warming.

I ask unanimous consent that the article be printed in the Extensions of Remarks.

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

MY CHILDREN ARE ORDINARY

(By Judi Silverman)

You read about boys setting fire to a young girl, or stoning an old man to death. You hear about kids mainlining their life away, or wasting each other in a gang fight.

My children are ordinary. They don't make headlines, or columns, or richly-financed studies.

Their names aren't Kool Sly, or Ace, or Hit Man. They have ordinary names, like Mark, Steven, Gina, and Lesley, Carole, Becky, and Tyrone. There were 50 names in all, and they made up the senior glee club of PS 127 in New York City.

These children decided to take their holiday show last month to a local hospital, and they took their show, their warmth, their youth, and their innocence to Creedmoor Hospital. Arrangements were made to visit the building where the aged were cared for.

My 50 high-spirited, wonderful children began in the ward on the eleventh floor. They sang four songs, smiling, but the smiles slowly faded as they looked around. Their faces were serious as they repeated the show on the tenth floor. Their fists began to clench, and they huddled closer together.

They couldn't become accustomed to the human degradation they saw. They remained poised, though their throats were tightening and they were visibly shaken.

By the eighth floor, one of my girls broke down. On the seventh floor, our fifth show, Lonnie was singing in the sweetest voice, when the room was split with what can only be described as a shattering cackle.

My children continued without a falter, and wished the patients happy holidays.

When they were six floors below, the girls broke down and cried. They cried for the misery and suffering of others. They cried for people they didn't know, and would probably never see again. They cried for the sorrow of the forgotten, the aged and sick and lonely. They cried and they were beautiful.

I saw the school's toughest boy tenderly comfort a sobbing girl, while tears streamed down his cheeks. I saw children, black and white, Christian and Jew, cross every man-made boundary in a moment of complete empathy.

I was proud of them. I tried to tell them just how proud I was. I love these magnificent children, and I just wanted to tell you this story about them.